### METROPOLITAN AREA PLANNING COMMISSION

## **MINUTES**

## August 8, 2002

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, August 8, 2002, at 1:00 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Jerry Michaelis, Chair; Bud Hentzen, Vice-Chair; Ron Marnell; Don Anderson; Bill Johnson; Harold Warner; Frank Garofalo; Ray Warren; Kerry Coulter; David Wells; John McKay, Jr.; Elizabeth Bishop and Dorman Blake. James Barfield was absent. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Donna Goltry, Principal Planner; Jess McNeely Associate Planner; and Rose Simmering, Recording Secretary.

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| <ol> <li>Approval of the MAPC minutes July 25, 20</li> </ol> | 1. |  | App | roval | of | the | MAP | C n | ninutes | July | 25, | 200 |
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Action was deferred to the next meeting.

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MICHAELIS arrives at 1:10 p.m.

 DR00-11 – Overview of Delano Overlay District, Design Guidelines and Rezoning; authorize setting a public hearing.

# WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING DEPARTMENT

DATE: August 8, 2002

TO: Metropolitan Area Planning Commission

FROM: David Barber AICP, Chief Planner - Land Use/Research Division

SUBJECT: 1. Proposed Overlay District, Design Guidelines and Rezoning for the Delano Neighborhood.

2. Setting a Public Hearing for September 26, 2002.

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On August 8<sup>th</sup> at 1:00 p.m., representatives from the Delano neighborhood and MAPD staff will present to the Commission, the proposed Overlay District, Design Guidelines and Rezoning for the Delano neighborhood. This proposal has been under development for over a year by the Delano Steering Committee, following the adoption of the Delano Neighborhood Revitalization Plan in April 2001. On August 1<sup>st</sup>, the Advanced Plans Committee received a briefing on this proposal.

Attached to this memo is a copy of the proposed Overlay District and Design Guidelines. Maps showing existing and proposed rezoning are also included. Regarding the rezoning proposal, it is important for the Commission to realize that the intent of the Delano Steering Committee is to create a zoning concept that matches existing land use as closely as possible, while still reflecting the spirit of the Delano Plan. Any property owner objecting to the rezoning proposed for their property will have their property left as currently zoned.

A timetable for public input and feedback on the proposed Overlay District, Design Guidelines and Rezoning for the Delano Neighborhood has been established as follows:

| Delano neighborhood sponsored public meeting, 7:00 p.m., August 20th, Westside Baptist Church, 304 South Seneca.                   |
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| Mail-out notice of MAPD public hearing to all property owners no later than August 26 <sup>h</sup> .                               |
| District Advisory Board IV presentation, 7:00 p.m., September 4th, Stanley/Aley Hall, 1749 S. Martinson.                           |
| Delano neighborhood sponsored open house and Q/A meeting, 7:00 p.m., September 12 <sup>th</sup> , St. Joseph's Parish Hall, 145 S. |
| Millwood.  |
| MAPC public hearing, September 26 <sup>th</sup> , Planning Conference Room, 10 <sup>th</sup> Floor, City Hall.                     |

BISHOP There are two different issues one is the rezoning and the other is the overlay. This fact that somebody would not be rendered nonconforming, as I understand it refers to the Overlay District.

HENTZEN Can the person that says that don't want my property rezoned and has a business there and later on wants to expand can he expand to the 30% of the floor area?

BARBER Yes he can but if he wants to expand more than 30% and he is in this list of no new additional uses...Have I got this nonconforming business right Marvin?

KROUT Like any other nonconforming use they should be allowed to expand 30% without any review but if they want to expand more than that they will have to go through design review.

HENTZEN That applies to the Overlay?

KROUT Right.

WARREN I am still not real clear. They do not have to accept a new zone, they can retain their existing zone, but they do have to accept the conditions of the overlay?

KROUT If they did an expansion they would be subject to design review.

WARREN They would still be under that overlay. I don't see anything here where it says that they would only be subject to the design review.

KROUT There is only two parts to the overlay. One is the use limitation and the other is the design review. If the use limitation say that you need a Conditional Use for certain types of activities that otherwise you wouldn't, the implication is that you are not nonconforming, but if you expand you need to obtain a Conditional Use and you would be subject to design review for that.

WELLS So it doesn't matter if you are changing the zoning or not, by applying the Overlay District you are going to eliminate them from doing what they could do now under their current zoning.

KROUT I don't know how you came to that conclusion Commissioner, but I probably couldn't convince you otherwise.

WARREN Dave, that list you are showing us is different than what I am looking at here.

BARBER I have summarized these in layman's terms because we found that based on the presentation last week that some of the official terms used in the zoning code mean different things to different people, so we tried to make this simple and this is the essence of w hat we are referring to.

WARREN Did I see self-serving storage warehouse on your list?

BARBER We have moved that, it is now a Conditional Use, that was one of the changes that we made in the last week. Before it was a prohibited use, a week ago, but based on some of the comments that the Advance Plans committee made, the Steering Committee felt that maybe it can be a Conditional Use, so we did make that one change there.

These are the kind of uses that would be allowed but subject to the Conditional Use permit, and the whole idea of this Conditional Use permit is basically to ensure that there is opportunity to ensure that each of these new future developments would be properly sited, situated, designed to enhance the character of the Delano Neighborhood.

There are a set of design guidelines along with administrative review procedure, there would be design a committee comprised of the Planning Director, Zoning Administrator and the Historic Preservation Officer. A 20-day review period in any decisions of that group would be appealable to the Board of Zoning Appeals.

WARREN What you have presented to us is this the presentation that is going to made in these August and September meetings that I see scheduled?

BARBER Yes, identical presentation.

WARREN I would suggest that it is a polish over to what the real meat and teeth of this thing is, and there is a lot in here that would be passed over to the casual observer that I think they ought to know about.

BARBER We will be making copies of all the details so people can take them home and read them and we will be sending out a public notice.

WARREN You may not go line, for line but some of the requirements necessary to go before the Board of Review, the cost, how many documents are going to have to be filed, how much Engineering is going to have to be done, and what it is going to take to satisfy this review board, I think those things need to be explained to people before we just polish over these things.

HENTZEN What are the appeal procedures of the individual property owners?

BARBER The rezoning will be a proposal, and anyone who objects to what is being proposed will be given an opportunity to send a written letter of request to our department advising they wish to leave their property to be left as currently zoned, and we will take care of that before any rezoning is finally proposed for the Governing Body themselves.

HENTZEN What right in the way of Appeal do the property owners have?

BARBER If the overlay is adopted then there is this design review committee of three people and they would review the items within a 20 day period. We are proposing that if they are unsatisfied with that, then they would appeal that decision to the Board of Zoning Appeals and they meet monthly.

HENTZEN I just want to know how many chances does that homeowner or property owner have to get his thoughts considered without going to the courtroom? You are telling me that any appeal on the decision, on Overlay questions, which is mostly Conditional Uses and design issues, will not be submitted to this Board?

KROUT A request for a Conditional Use will come to this Board for all Conditional Uses, an appeal on a design issue will go to the Board of Zoning Appeals.

BARBER The rezoning, the Conditional Uses and any request to amend the Overlay zone will come to you.

BISHOP It's important to take into account the history of the area, and that the community is making investments to make this a destination point for tourism. The neighborhoods must be strong and they are working very hard, there will be six different public hearings before going on to the City Council.

MARNELL Question about the Overlay District.

KROUT If there is a new requirement for a Conditional Use that wasn't there before and they are expanding over 30%, they would file a Conditional Use request to do that expansion and it would come to you in a public hearing like it does today.

MARNELL But somebody who is operating legally now, who has property that is properly zoned but the overlay goes over the top of it and it becomes a prohibited use he can't expand that business?

KROUT If it is a prohibited use. that is right.

MARNELL Can we not modify that overlay?

KROUT I am sorry, if it is a prohibited use, they are still considered nonconforming, and they would still under the Code have the right to expand up to 30%.

MARNELL But when they want to go beyond 30%, where are they coming back to us?

KROUT They would have to modify the overlay or the base zone, if either one of those were causing them to be a prohibited use.

MICHAELIS Are we ultimately going to approve this overlay as a formal action? So we would have a chance to make modifications to it or suggest modification to it at that time?

KROUT Yes.

WARREN This is not the normal black and white zoning, it is very subjective as to what is in character and it is very ill defined, so it becomes somebody's opinion about whether this application can be approved or not. Delano is a mom and pa shops area that we are still trying to protect, and I don't think giving them more regulations and restrictions and control, I think you give them incentives. If you make it cost too much, to satisfy the government and restrictions, the word will get out through the realtors" don't buy there, to stay out of this area," it will be too tough that is where we stand different.

BISHOP My impression from the neighborhood is that there is a great value for the mom and pop businesses. They are looking for some protection and insurance that the development and the people that do come in have made a solid commitment and are willing to go through the hoops.

MOTION: To set public hearing date for September 26, 2002.

ANDERSON moved, BLAKE seconded the motion, and it carried (13-0).

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## 3. Consideration of Subdivision Committee Recommendations

Items 3-1 through 3-5 may be taken in one motion unless there are questions or comments.

KROUT Item 3-1 is going to be deferred and rescheduled for September at the request of the applicant.

Item 3-3 and Item 3-4 are relating to zoning case and they need to be brought up after each of those zoning cases.

- 3/1. Sub2002-00057 Final Plat REED'S COVE ADDITION, generally located on the southeast corner of 21<sup>st</sup> Street North and 127<sup>th</sup> Street East.
- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change.
- C. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. <u>Limitations on</u> sewer capacity have been imposed.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Engineering needs to see applicant's drainage plan for any effects on 21st St. County Engineering has noted drainage structures along the south property line. A drainage easement is needed. City Engineering has approved the drainage plan. A guarantee is needed.

- F. Complete access control has been platted along the site's frontage to perimeter streets. <u>Traffic Engineering has approved an additional opening along 127<sup>th</sup> St. East for Lot 40, Block 1. This shall be labeled as "Access control except one opening".</u>
- G. <u>Traffic Engineering has approved all street widths. The 58-ft wide segment of Reed's Cove shall be limited to parking along one side of the street.</u>
- H. <u>Traffic Engineering</u> has requested the deletion of Reserve H located at the entrance to the Addition along 127th St. East. The applicant has reduced the size of Reserve H which is acceptable to Traffic Engineering.
- I. The Applicant shall guarantee the paving of the proposed streets.
- J. The paving guarantee shall also provide for sidewalks on both sides of Reed's Landing/Reeds Cove which is functioning as a collector, and along one side of the loop street. <u>The Applicant intends to submit an alternate sidewalk plan.</u>
- K. MAPD recommends that the railroad right-of-way be connected to the cul-de-sacs by access easements contingent upon its conversion to a public trail use. *The Subdivision Committee did not approve this condition.*
- L. The use of Reserves A and G for utilities located within platted easements should be referenced in the plattor's text.
- M. As Reserve A includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. Otherwise a conditional use and public hearing will be needed in the future.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between this site's north property line and driving surface for 21st St. North and 127th St. East.
- O. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. <u>City Fire Department</u> needs to comment on the street length of Woodbridge Ct at the southwestern corner of the site (650 feet). The Subdivision Regulations limit urban cul-de-sacs to 600 feet in length. <u>The street length is approved.</u>
- Q. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- R. The <u>City Fire Department/GIS</u> needs to comment on the plat's street names. "Reeds Cove" needs to be changed to "Reedscove" A new name is needed for Reeds Landing. <u>The Subdivision Committee has approved "Reeds Cove".</u>
- S. "13<sup>th</sup> St. North" shall be revised to "21<sup>st</sup> St. North".
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights -of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce

pollutant loadings in storm water runoffs.

- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- CC. The representatives from the <u>utility companies</u> should be prepared to comment on the need for any additional utility easements to be platted on this property. <u>Southwestern Bell has requested additional easements.</u>
- DD. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: Defer item 3-1.

**HENTZEN** moved, **JOHNSON** seconded the motion, and it carried (13-0).

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- 3/2. <u>SUB2002-00054</u> Final Plat SISTERS OF ST. JOSEPH FIFTH ADDITION, generally located north of Harry, east of Hillside.
- A. Municipal services are available to serve the site. A drainage reserve is needed along the southeast portion of the plat.

The drainage reserve has been platted as requested.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. A cross-lot access agreement shall be provided with the property to the north.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. On the final plat tracing, the MAPC signature block needs to reference "J.D. Michaelis, Chair".
- H. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the <u>utility companies</u> should be prepared to comment on the need for any additional utility easements to be platted on this property. <u>Southwestern Bell has requested additional easements.</u>
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this

plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**MICHAELIS** moved, **MCKAY** seconded the motion, and it carried (13-0).

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3/5. Modification of Lot Width to Depth Ratio for Lots 16A-20A (Inc.), Block 1, Woodland Lakes Estates Second Addition (Lot Split No. SUB2002-75).

#### METROPOLITAN AREA PLANNING DEPARTMENT

AGENDA ITEM NO. 3-5 AUGUST 8, 2002

**DATE:** August 8, 2002

**TO:** Metropolitan Area Planning Commission

FROM: Neil Strahl, Senior Planner, Planning Department

SUBJECT: Modification of Lot Width to Depth Ratio for Lots 16A through 20A (Inc.), Block 1, Woodland Lakes Estates

Second Addition (Lot Split

No. SUB 2002-75)

This site is zoned "SF-5" Single Family Residential District and is located south of I-35 and west of 127<sup>th</sup> Street East. This lot split encompasses the creation of 7 lots from 5 lots.

The required lot width to depth ratio of 2.5 to 1 is exceeded and a modification from the Subdivision Committee is requested.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, MCKAY seconded the motion, and it carried (13-0).

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5. <u>CON2002-00039</u> – Kansas Public Telecommunications Service, Inc. c/o David W. McClintock (owner/applicant); Voicestream Wireless c/o George Wyrick (applicant); Ferris Consulting c/o Greg Ferris (agent) request a Conditional Use for a wireless communication facility on property described as:

A tract of land lying in and being a part of Lots Thirteen (13) and Fifteen (15), Judson Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said Lot 13; Thence North 88 degrees 45'11" East, along the North line of said Lot 13, a distance of 11.24 feet to the point of beginning; Thence continuing North 88 degrees 45'11" East, along said North line, a distance of 43.94 feet; Thence South 01 degree 14'49" East a distance of 36.50 feet; Thence South 88 degrees 45'11" West a distance of 20.44 feet; Thence North 01 degree 14'49" West a distance of 12.00 feet; Thence South 88 degrees 45'11" West a distance of 3.50 feet; Thence North 01 degree 14'49" West a distance of 6.50 feet; Thence South 88 degrees 45'11" West a distance of 20.00 feet; Thence North 01 degree 14'49" West a distance of 18.00 feet to the point of beginning. Generally located North of 21st Street North and east of Waco

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached illustration) for use by KPTS-TV and VoiceStream Wireless. An existing 70-foot high lattice tower on the property would be removed after construction of the new tower. The proposed site is zoned "LC" Limited Commercial. Wireless Communication Facilities over 85 feet in height in the "LC" Limited Commercial zoning district may be permitted with a Conditional Use.

The proposed tower would be sited on a 1,192 square foot area located approximately 115 feet north 21<sup>st</sup> Street North and 10 feet east of Waco. Access to the site is proposed via an existing concrete parking lot for KPTS-TV. The applicant's site plan (attached) depicts an "L-shaped" fenced compound with the tower located approximately in the center of the compound. The compound is shown as being enclosed by a six-foot high chain linking fence. A solid screening fence around the equipment compound is required by the Unified Zoning Code since the equipment compound is located less than 150 feet from the street right-of-way.

The applicant indicates (see attached letter) that the proposed wireless communication facility is needed for KPTS-TV to mount an additional antenna at a height of 110 feet. The applicant also indicates that the tower is need for VoiceStream Wireless to provide improved wireless telephone coverage in the area near 21<sup>st</sup> Street North and Broadway. The applicant indicates that they evaluated using several existing towers in the area, and that these other towers do not meet their communication needs.

The character of the surrounding area is a mixture of commercial and residential uses along the 21<sup>st</sup> Street corridor, with commercial uses adjacent to 21<sup>st</sup> Street and residential uses located behind the commercial uses. The property located east of the subject property is zoned "LC" Limited Commercial and is developed with the KPTS television studio. The property located north of the subject property is zoned "GO" General Office, is currently developed with single-family residences, and is the location of a planned expansion of the KPTS television studio. The property located west of the subject property across Waco is zoned "LC" Limited Commercial and is developed with retail and restaurant uses. The property located south the subject property across 21<sup>st</sup> Street is zoned "LC" Limited Commercial and is developed with retail and medical office uses.

CASE HISTORY: The subject property is platted a part of Judson's Addition, which was recorded March 18, 1887.

#### ADJACENT ZONING AND LAND USE:

NORTH: "GO" Single-family
SOUTH: "LC" Retail, medical office
EAST: "LC" Television studio
WEST: "LC" Retail, restaurant

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to Waco, a two-lane paved local street

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights -of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. KPTS-TV has plans for a major expansion of the television studio at this location. These plans were recently supported by the approval of a zone change on property north of the existing tower. The expansion of the television studio involves a need for an additional antenna at a height of 110 feet, which requires reconstruction of the existing tower. Were this request for a 110-foot high tower only for KPTS-TV, the Unified Zoning Code would allow by right a 25% height extension to 137.5 feet, which is only 12.5 feet lower than the 150-foot high tower requested. Additionally, the Wireless Communication Master Plan specifically mentions that wireless service providers should seek to replace existing towers before constructing new towers. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The existing 70-foot high support structure shall be removed within 30 days of erection of the 150-foot high support structure.
- F. The equipment compound shall be enclosed by a minimum six-foot high solid screening fence constructed of materials that meet the requirements of Sec. IV.B.3.d. of the Unified Zoning Code.
- G. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- J. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mixture of commercial and residential uses along the 21<sup>st</sup> Street corridor, with commercial uses immediately adjacent to 21<sup>st</sup> Street and residential uses located behind the commercial uses. The location of the proposed tower is within the commercial area of the neighborhood. While increasing the tower height will increase its visual impact, it should not significantly alter the character of the neighborhood.

- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial, and has been developed with a commercial use, including a 70-foot high wireless communication facility. Wireless communication facilities up to 85 feet in height in the "LC" district may be permitted with an Administrative Permit, but must conform to the guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "LC" district that does not conform to the guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.
- 3. <u>Extent to which removal of the restrictions will detrimentally affect nearby property</u>: The visual impact of the proposed tower will increase with the more than doubling the height of the tower; however, a 70-foot high tower has existed on the subject property without any significant detrimental affects on nearby property.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Location Guidelines of the Wireless Communication Master Plan since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in an area where a building obscures some of the facility from view. The proposed wieless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive.
- 5. <u>Impact of the proposed development on community facilities</u>: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

GAROFALO I wonder the report indicates there are other areas other towers that are close by at least one notably the tower at 23<sup>rd</sup> Street and I-135 and I was wondering why would that not be suitable?

MICHAELIS Staff recommended approval, but if you want to treat it separately and discuss that, we will pull that item out and discuss.

GAROFALO No, I just wanted an answer to that question.

KNEBEL There is not a tower at 21st and I-135.

GREG FERRIS Scott, there is one at 23rd and I-135.

GAROFALO Existing tower at 23<sup>rd</sup> Street just west of I-135.

KNEBEL The applicant indicated that it was too close to their existing tower which is at 29<sup>th</sup> and Broadway, is that right Greg?

FERRIS Yes.

MICHAELIS asked if the applicant or agent was in agreement with all the staff comments, and received a response in the affirmative.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, MARNELL seconded the motion, and it carried (13-0).

8. ZON2002-00046 Amendment to P O #36 – New Market Square, LTD (owner) request amendment to Protective-Overlay #36 on property described as:

Lot 9, Block 1, Newmarket Square, an Addition to Wichita, Sedgwick County, Kansas.

Generally located On the north side of 21st Street North approximately 1,110 feet west of Maize Road

**BACKGROUND:** The applicant is proposing to amend the protective overlay provisions for Parcel 9 of the NewMarket Square development. The proposed amendment to PO #36 would allow "LC" uses on Parcel 9 except for the following exclusions: taverns, adult entertainment, car washes and drive in/drive through restaurants, with the additional restriction that no overhead doors would be permitted on the west or south facades of any building on Parcel 9. The number of buildings allowed on Parcel 9 would increase from one to two buildings. Other provisions of the protective overlay (building coverage, gross area, and height) would be unchanged.

Currently, Parcel 9 is zoned "LC" Limited Commercial, but is restricted to "GO" General Office uses except residential uses. This would not allow the parcel to be developed with retail uses, restaurants, and other similar commercial uses.

The area to the north, east and south is developed with commercial uses. Wal-Mart is located directly to the north, a bank is located directly to the east and a large furniture store is located directly to the south on Maize. The adjacent property to the west is a church. All other property to the west is low density (single-family) residential.

<u>CASE HISTORY</u>: P-O #36 was approved as part of SCZ-0703 (January 24, 1996) and the property is platted as New Market Square, recorded April 27, 1998.

### ADJACENT ZONING AND LAND USE:

NORTH: "LC" Limited Commercial Wal-Mart, NewMarket Square EAST: "LC" Limited Commercial Bank, vacant, Walgreens

SOUTH: "LC" Limited Commercial Furniture store, greenhouse, office, bank WEST: "SF-5" Single-Family Single-family residences

<u>PUBLIC SERVICES</u>: Transportation access is from the private access drive abutting the parcel on the west that has access to 21<sup>st</sup> Street North, a six-lane arterial street. Existing traffic counts for eastbound traffic on 21<sup>st</sup> Street North is 11,744; projected to increase to 15,000 ADTs by 2030.

Other normal municipal services are available.

<u>CONFORMANCE TO PLANS/POLICIES</u>: The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the subject parcel for "commercial" use, which is in conformance with the requested protective overlay amendment.

**RECOMMENDATION:** The proposed amendment would allow retail, banking and restaurant uses on Parcel 9, the western-most parcel of the NewMarket development, but still restricts the intensity of use by eliminating taverns and adult entertainment, drive in/drive-through restaurants and car washes. It would prohibit overhead doors facing residential and church uses on the south and west. Based on these factors and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following protective overlay provisions:

### Parcel 9

Proposed Uses - All uses permitted in the "LC" Zoning District except taverns, night clubs in the City, and adult entertainment as defined by City Code, car washes and drive in/drive through restaurants and except residential uses. No overhead doors shall be permitted on the west or south faces of any building on the parcel.

Net Area - 0.94 acres + or -; or 41,080 sq. ft. Maximum Building Coverage - 30 % or 12, 324 square feet Maximum Gross Area - 30 % or 12, 324 square feet Maximum Building Height - 35 feet Maximum Number of Buildings - 2

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The zoning to the north, east and south of Parcel 9 is "LC" Limited Commercial and developed with a variety of commercial uses (Wal-Mart, NewMarket Square shopping center, banks, greenhouse, medical offices, furniture store), most of which are of equal or greater intensity than the proposed request. The property to the west is residential ("SF-5") and is developed with a church on the adjacent property and with residential subdivisions to the northwest, west and southwest.
- 2. <u>The suitability of the subject property for the uses to which it has been restricted</u>: The property is suitable for use in conformance with the protective overlay restrictions currently in effect.
- 3. <u>Extent to which removal of the restrictions will detrimentally affect nearby property:</u> Allowing "LC" type uses would increase the likelihood that the parcel is developed with a bank, retail or restaurant or other "LC" use rather than being restricted to offices. This would be an increase in intensity and the property most affected would be the adjacent church.
- 4. <u>Length of time the property has remained vacant as zoned:</u> The property has been vacant and available for development for four years since the platting was completed.
- 5. <u>Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies</u>: The requested change is in conformance with the *Comprehensive Plan*.
- 6. <u>Impact of the proposed development on community facilities</u>: The proposed changes should not impact traffic, particularly since direct access is via the private drive already in existence or by cross-lot access to the abutting commercial tract to the east.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, HENTZEN seconded the motion, and it carried (13-0).

9. <u>ZON2002-00043</u> – Ridge Port Group, LLC c/o Jay Russell (owner/applicant); Baughman Company, P A c/o Terry Smythe (agent) request a Zone change from "GO" General Office to "SF-5" Single-Family Residential on property described as:

All of Lot 1, Block D, Ridge Port North 4th Addition, Wichita, Sedgwick County, Kansas. Generally located 37<sup>th</sup> Street North, ¼ mile east of Ridge Road

**BACKGROUND:** The applicant requests a zone change from "GO" General Office to "SF-5" Single-Family Residential on the 19.17 acre site. The site will be replatted as the Ridge Port North 5<sup>th</sup> Addition, upon recommendation of the zoning. The site is located south of 37<sup>th</sup> Street North and approximately ½ mile east of Ridge Road. The applicant indicates that the "SF-5" Single-Family Residential zoning request is to permit future development of single-family housing.

The site and the surrounding area is on the fringe of the developing urban area for

Wichita, with much of the land in the area still used for agriculture. The properties north of the site (across 37<sup>th</sup> St North) are zoned "SF-20" Single-Family Residential and are used for agriculture and sand and gravel extraction. The properties south and southeast of the site are zoned "SF-5" Single-Family Residential and are proposed for the future development of single-family residences in the Ridge Port North 4<sup>th</sup> Addition. These properties are used for agriculture. Most of the property west of the site is zoned "GO" General Office and is currently being developed with medical offices. The property immediately west and north of the site is zoned "SF-5" Single-Family Residential and is developed with a farm-related residence and outbuildings.

**CASE HISTORY:** The southwest portion of this site was re-zoned from "SF-6" to "TF-3" by the Wichita City Council, 12-21-99. This portion of the site was platted and recorded as part of Lots 1-23, Block 8, Ridge Port North 3<sup>rd</sup> Addition, on 02-13-01. The "TF-3" zoning covered approximately 7.66 acres. The site was then approved for re-zoning to "GO" by the Wichita City Council 03-20-01. The site was platted and recorded as Lot 1, Block D of the Ridge Port 4<sup>th</sup> Addition on 08-08-01.

# **ADJACENT ZONING AND LAND USE:**

NORTH: "SF-20" Agriculture; sand and gravel extraction

SOUTH: "SF-5" Undeveloped EAST: "SF-20" Agriculture "SF-5" Agriculture

WEST: "SF-5" & "GO" Farm-related residence; developing medical offices

<u>PUBLIC SERVICES</u>: The site has access to 37<sup>th</sup> Street North, an unpaved section-line road. There are no current traffic volumes available and the 2030 Transportation Plan does not provide an estimate of future traffic volumes for this segment of 37<sup>th</sup> Street North. Planning staff estimates that traffic volumes on 37<sup>th</sup> Street North will be less than 5,000 vehicles per day in 2030. Planning staff will recommend that the applicant guarantee paved access to their property at the time of platting. Other off-site improvements related to traffic, drainage, etc., may be recommended at the time of platting. Public water and sewer service are available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 2001 Update to the Comprehensive Plan identifies this property as being on the eastern edge of an area identified as being appropriate either for "Office" or "Low Density Residential" development. The "Office" category provides for office developments that furnish business, finance, insurance, real estate, medical, and other professional services usually permitted in office zoning districts. The "Low Density Residential" category provides for the lowest density of urban residential land uses and consists of single family detached homes, zero lot line units, cluster subdivisions and planned developments with a mix of housing types that may include townhouses, and multi family units. Schools, churches and other similar uses are also found in this category. As proposed, the request for "SF-5" zoning accommodates moderate-density, singlefamily residential development and complementary land uses. The site is suitable for single-family residential uses and conforms to the Land Use Guide.

**<u>RECOMMENDATION</u>**: Planning staff finds that the subject property is appropriate for single-family residential development. Based upon the information available prior to the public hearings, planning staff recommends that the request be <u>APPROVED</u> subject to platting within one year.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding area is on the fringe of the developing urban area for Wichita, with much of the land in the area still used for agriculture. The properties east of the site are zoned "SF-20" & "SF-5" Single-Family Residential and are used for agriculture. The properties north of the site are zoned "SF-20" Single-Family Residential and are used for sand and gravel extraction or agriculture. The properties south of the site are zoned "SF-5" Single-Family Residential and are proposed for the future development of single-family residences in the Ridge Port North 4h Addition. Most of the property west of the site is zoned "GO" General Office and is currently being developed with medical offices. The property immediately west of the northern portion the site is zoned "SF-5" Single-Family Residential and is developed with a farm-related residence and outbuildings.
- The suitability of the subject property for the uses to which it has been restricted: The site is on the eastern edge of an
  area recommended for "Office or "Low Density Residential". The site is suitable for either office or low to moderate
  density residential development.
- 3. <u>Extent to which removal of the restrictions will detrimentally affect nearby property</u>: Approval of the request will result in a reduction in intensity and range of uses permitted when compared to the site's current "GO" zoning.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 2001 Update to the Comprehensive Plan identifies this area as appropriate for "Office" or "Low Density Residential" development. The "Office" category provides for office developments that furnish business, finance, insurance, real estate, medical, and other professional services usually permitted in office zoning districts. The "Low Density Residential" category provides for single-family detached homes, zero lot line units, cluster subdivisions and planned developments with a mix of housing types that may include townhouses, and multi-family units As proposed, the request for "SF-5" Single Family-Residential zoning conforms to the Land Use Guide.

Impact of the proposed development on community facilities: Impacts on community facilities will be addressed at the time
of platting and are not expected to exceed existing and planned service delivery capacity.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, COULTER seconded the motion, and it carried (13-0).

13. ZON2002-00044 – Danville I, c/o Ronald Peden (owner); Don Klausmeyer Construction (contract purchaser) Lorene

R. Wilson and Kelly R. Phipps (applicants) Baughman Company, PA c/o Terry Smythe (agent) request a Zone change from "SF-5" Single-Family Residential and "B" Multi-Family Residential to "LC" Limited Commercial on property described as:

Lots 15, 16, 17 and 18, Block 1, Roe Addition to Wichita, Kansas, Sedgwick County, Kansas. <u>Generally located South of</u> Central and east of Westridge.

**BACKGROUND:** The applicant requests a zone change from "SF-5" Single-Family Residential to "LC" Limited Commercial on a 0.5 acre platted tract located south of Central and east of Westridge. The subject property is currently developed with a single-family residence. The applicant has not specified a proposed use for the subject property.

The surrounding area is characterized by a mixture of commercial and residential uses with many of the properties along Central developed with commercial uses and the remainder of the properties in the area, including properties fronting Central, developed with residential uses. The property to the west is zoned "NR" Neighborhood Retail and is developed with a medical office. The property to the north across Central is zoned "LC" Limited Commercial and is developed with a restaurant. The property to the east is zoned "LC" Limited Commercial and is developed with retail. The property to south is owned by the applicant, is zoned "B" Multi-Family Residential, and is undeveloped.

CASE HISTORY: The subject property is the north 145 feet of Lot 5, Block 1, Peacock Addition, which was recorded January 31, 1955. On January 31, 1995, the City Council, based on a recommendation from the MAPC, denied a zone change request (Z-3151) to "LC" Limited Commercial and instead approved "OC" Office Commercial (now "NR" Neighborhood Retail) for the subject property. The zone change was approved subject to replatting, which was never completed; therefore, the zone change was denied and the request closed. The lower-intensity zoning district was approved for the subject property in part to be consistent with a zone change on another property (Z-3112) located two blocks to the west at Central and Kessler. Since the time of the last zone change request on the subject property, a zone change (Z-3289) to "NR" Neighborhood Retail was approved on the property immediately west of the subject property. For both neighboring properties zoned "NR" Neighborhood Retail, the applicant's request for "LC" Limited Commercial was denied in favor of "NR" Neighborhood Retail zoning.

## ADJACENT ZONING AND LAND USE:

NORTH: "LC" Restaurant
SOUTH: "B" Undeveloped
EAST: "LC" Retail
WEST: "NR" Medical office

<u>PUBLIC SERVICES</u>: The subject property has access to Central, a five-lane arterial street with current traffic volumes of approximately 16,000 vehicles per day. The 2030 Transportation Plan projects future traffic volumes on Central will not increase. The 2030 Transportation plan projected no change in traffic volume based on the assumption that additional crossings of I-235/Big Ditch would be constructed at 13<sup>th</sup> Street, 21<sup>st</sup> Street, and 25<sup>th</sup>/29<sup>th</sup> Street by 2030. If one or more of these crossings is not constructed, then future traffic volumes on Central likely will increase.

If the subject property were developed with a high-traffic generating use permitted in the "LC" Limited Commercial district such as a convenience store or drive-through restaurant, the subject property would generate approximately 600-900 additional vehicles per day. If the property were developed with a small strip shopping center containing specialty retail, service businesses, and small, sit-down restaurants, the subject property would generate approximately 200-300 additional vehicles per day.

While the site has been platted, no access controls have been provided along Central for the subject property. Several issues will make addressing access issues at the time of replatting difficult. First, there is an access drive to Central at the east edge of the subject property that serves the existing single-family residence. The existing access drive is separated from the access drive to the neighboring property to the east by only 25 feet, which makes shared access with the property to east desirable. Second, the neighboring property to the west also has an access drive that is only 25 feet from the subject property, which could be a second point of shared access. Finally, Westridge is offset at Central and is located directly across from the subject property on the north side of Central, which creates turning movement conflicts with traffic from the subject property. The turning movements conflicts are increased since the neighboring property north of Central has an access drive only 90 feet east of Central that is offset from the existing access drive to the subject property.

<u>CONFORMANCE TO PLANS/POLICIES</u>: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines indicate that commercial sites should be located adjacent to arterial streets and should have site design features that limit noise, lighting, and other aspects of commercial activity that may adversely impact surrounding residential land uses.

The Goals, Objectives, and Strategies of the Wichita-Sedgwick County Comprehensive Plan also provide guidance regarding land use. The Land Use-Commercial/Office section contains the following strategy pertaining to the requested zone change:

III.B3. Work with property owners and businesses to reduce the number of access points along arterial streets, thus improving traffic safety and flow.

RECOMMENDATION: While planning staff finds the subject property appropriate for commercial development, the types of uses permitted by the "LC" Limited Commercial zoning district (i.e., drive-through restaurants, convenience stores, and auto-related uses such as vehicle repair) are too intense given the limited size of site and the site's location removed from an arterial intersection and near existing residential development. Intense commercial development of the site would likely lead to adverse impacts from lighting, noise, and trash on surrounding residential land uses. To mitigate these impacts, planning staff recommends that the subject property be developed with small, neighborhood serving commercial development such as specialty retail, service businesses, and small, sit-down restaurants. These types of uses are permitted by the "NR" Neighborhood Retail zoning district. Based upon information available prior to the public hearings, planning staff recommends that the request for "LC" Limited Commercial zoning be <u>DENIED</u> and instead that "NR" Neighborhood Retail zoning be <u>APPROVED</u>, subject to replatting within one year.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of commercial and residential uses with many of the properties along Central developed with commercial uses and the remainder of the properties in the area, including properties fronting Central, developed with residential uses. While some properties in the area are zoned "LC" Limited Commercial, the more recent requests for zoning changes to "LC" have been denied in favor of rezoning to the "NR" Neighborhood Retail zoning district, which is more compatible with the zoning, uses, and character of the neighborhood.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-5" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. The purpose of the "NR" Neighborhood Retail district recommended by planning staff is to accommodate very-low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. Given the site's location along an arterial and the orientation of the structure facing the arterial street, the long-term viability of the existing single-family residence on the site is questionable. The long-term use of the property is more suited for low-intensity commercial or office uses permitted in the "NR" district.
- 4. Extent to which removal of the restrictions will detrimentally affect nearby property: While some the existing commercial properties in the area are zoned "LC" Limited Commercial, the zoning of these properties was granted prior to the adoption of the 1993 Comprehensive Plan, which provided strategies for increasing compatibility between commercial and residential uses through the use of lower intensity zoning classifications for properties removed from an arterial intersection and near existing residential development. Within the past several years, the Unified Zoning Code has been amended to create a "NR" Neighborhood Retail district that permits low-intensity commercial and office uses that are appropriate near residential neighborhoods. While the low-intensity nature of the commercial and office uses permitted by the "NR" district should mitigate most detrimental affects on nearby residential uses, the screening, lighting, and compatibility standards of the Unified Zoning Code; the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance; and the greater restrictions on signage in the "NR" district in the Sign Code should further limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
- 4. <u>Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies</u>: The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The "NR" Neighborhood Retail zoning district recommended by planning staff is compatible with the "Commercial" designation. The Comprehensive Plan strategies pertaining to access control can be addressed through the platting process.
- 5. <u>Impact of the proposed development on community facilities</u>: Community facilities should not be adversely impacted as long as sufficient right-of-way, access controls, and traffic improvements are provided for through the platting process.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, HENTZEN seconded the motion, and it carried (13-0).

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15a. ZON2002-00034 (Associated with CON2002-00029) – Donald R. and Dorothy M. Albers (owners); Sedgwick County Electric Cooperative Association, Inc., c/o Alan L. Henning (applicant); Terra Tech Land Surveying, Inc. c/o Michele Webster (agent) request a Sedgwick County Zone change from "RR" Rural Residential to "LI" Limited Industrial on property described as:

and

15b. CON2002-00029 (Associated with ZON2002-00034) - Donald R. and Dorothy M. Albers (owners); Sedgwick County Electric Cooperative Association, Inc., c/o Alan L. Henning (applicant); Terra Tech Land Surveying, Inc. c/o Michele Webster (agent) request a Sedgwick County Conditional Use for a wireless communication facility on property described as:

A tract of land in the Southwest Quarter of Section 29, Township 27 South, Range 4 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Commencing at a point on the East line of said Southwest Quarter which is at an assumed bearing of North 0 degrees 13'25" West, a distance of 1491.34 feet from the Southeast corner of said Southwest Quarter; thence South 89 degrees 46'35" West, a distance of 82.03 feet to the Point of Beginning; thence South 89 degrees 46'35" West, a distance of 480.03 feet; thence North 0 degrees 13'25" West, a distance of 995.95 feet,

more or less, to the intersection with the South right-of-way of U.S. Highway 54, as deeded in Deed Book 1413, at Pages 436-440; thence North 89 degrees 43'15" East, on said right-of-way line, a distance of 394.52 feet, to the intersection with the Westerly right-of-way line of 383rd Street West, alson as deeded in Deed Book 1413, at Pages 436-440; thence South 5 degrees 07'45" East, on said right-of-way line, a distance of 1000.00 feet to the point of beginning Generally located At the southwest corner of Hwy 54 and 383<sup>rd</sup> Street West.

**BACKGROUND:** The applicant is seeking a zone change from "RR" Rural Residential to "LI" Limited Industrial and a Conditional Use to permit the construction of a 250-foot high lattice communication tower (see attached illustration). The proposed use of the subject property is for an office, warehouse, pole yard, and communication tower for the Sedgwick County Rural Electric Cooperative Association.

The subject property is a 10 acre unplatted tract located at the southwest corner of U.S. 54 Highway and 383<sup>rd</sup> Street West. The applicant has submitted a plat (Sedgwick County Rural Electric Cooperative Association Addition) for the subject property that was approved by the Subdivision Committee on June 13, 2002 and will be considered by the MAPC on August 8, 2002. The subject property is located within the zoning area of influence for the City of Cheney, which will consider the zone change and Conditional Use requests on August 5, 2002.

The applicant submitted the attached site plan that illustrates the proposed use of the subject property. At the present time, the applicant is proposing to develop the southern 4.5 acres of the property. The applicant proposes to develop a 6,400 square foot office building with an attached 14,400 square foot warehouse building. The buildings would be constructed of prefabricated metal with a brick faced on the lower portion of the south and east sides of the office building. The applicant proposes a 16,800 square foot pole yard. Since the pole yard is located within 150 feet of the street right-of-way, the Unified Zoning Code requires that the pole yard be screened; however, no screening of the pole yard is indicated on the site plan. The applicant proposes to locate the 250-foot high lattice communication tower immediately west of the warehouse building within a 20-foot by 20-foot compound enclosed with a chain link fence. The ground level communication equipment would be located within the proposed buildings. The access drive to 383<sup>rd</sup> Street West is proposed to be located 60 feet north of the south property line, which is 660 feet from the interchange with U.S. 54 Highway. The proposed Access Management Policy indicates that a driveway at this location should be limited to right-in/out movements. The applicant proposes 27 parking spaces paved with asphalt; however, the parking requirements of the Unified Zoning Code require 40 parking spaces for the square footage and uses proposed. The applicant proposes to screen the property from adjacent farm land to the south and west that is zoned "RR" Rural Residential with a solid hedge of evergreen vegetation. Such a screening method is permitted by the Unified Zoning Code if the vegetation is planted and maintained according to an approved landscape plan.

The applicant indicates (see attached letters) that the proposed wireless communication facility is needed for use by the Sedgwick County Rural Electric Cooperative Association and the Kansas Electric Power Cooperative. The Sedgwick County Rural Electric Cooperative Association would mount two antennas to the tower to support the mobile communications system used by their business. The Kansas Electric Power Cooperative would mount one antenna to the tower to support the mobile communications system used by their business.

The character of the surrounding area is rural. The properties surrounding the subject property in all directions are zoned "RR" Rural Residential and are used for agriculture. The subject property is located at the intersection of a U.S. highway and the main road to the City of Cheney.

**CASE HISTORY:** The subject property is unplatted.

# **ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Agriculture
SOUTH: "RR" Agriculture
EAST: "RR" Agriculture
WEST: "RR" Agriculture

<u>PUBLIC SERVICES</u>: The site has access to 383<sup>rd</sup> Street West, a two-lane paved county road with current traffic volumes of approximately 1,700 vehicles per day. The 2030 Transportation Plan does not address anticipated future traffic volumes on this street. No municipally-supplied public services are available to serve the site. On-site water and sanitary sewer systems have been approved by County Code Enforcement through the platting process.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guides for the Wichita-Sedgwick County and Cheney comprehensive plans do not specifically address the subject property other than to indicate that the subject property is located within Cheney's zoning area of influence. The Cheney comprehensive plan provides locational guidelines that indicate that industrial uses should be located south of the railroad tracks within the City of Cheney or, if this location is not desirable, then industrial uses should be located outside the City of Cheney but away from existing or proposed future development. The Wireless Communication Master Plan is an element of the Wichita-Sedgwick County Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Wireless Communication Master Plan indicates that the proposed wireless communication facility is a "private dispatch system" that should be considered accessory to the on-site user it supports and should be used as a future co-location site for other wireless communication providers. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

<u>RECOMMENDATION</u>: Based upon the information available prior to the public hearings, planning staff recommends that the request be <u>APPROVED</u> subject to platting the subject property within one year and subject to the following Conditional Use restrictions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable
- C. The support structure shall be a maximum of 250 feet in height and shall not be lighted unless required by the FAA.
- D. Approval of the Conditional Use constitutes a reduction of the Compatibility Height Standard to 140 feet from both the south and west property lines for the wireless communication facility.
- E. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, County Code Enforcement, and Director of Airports prior to the issuance of a building permit.
- F. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. <u>The zoning, uses and character of the neighborhood</u>: The character of the surrounding area is rural. The properties surrounding the subject property in all directions are zoned "RR" Rural Residential and are used for agriculture. The nature of the proposed electric cooperative business is compatible with the zoning, uses, and character of the neighborhood since it will be located at the intersection of a U.S. highway and the main road to the City of Cheney.
- 2. <u>The suitability of the subject property for the uses to which it has been restricted:</u> The site is zoned "RR" Rural Residential and is currently used for agriculture. The site is apparently suitable for continued agricultural use but the proposed electric cooperative business should be no more offensive than normal agricultural operations.
- Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on remaining residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.
- Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use Guides for the 4. Wichita-Sedgwick County and Cheney comprehensive plans do not specifically address the subject property. The Cheney comprehensive plan provides locational guidelines that indicate that industrial uses should be located south of the railroad tracks within the City of Cheney or, if this location is not desirable, then industrial uses should be located outside the City of Cheney but away from existing or proposed future development. The subject property is located away from existing or proposed future development. The Wireless Communication Master Plan is an element of the Wichita-Sedgwick County Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Wireless Communication Master Plan indicates that the proposed wireless communication facility is a "private dispatch system" that should be considered accessory to the on-site user it supports and should be used as a future co-location site for other wireless communication providers. The recommended conditions of approval require that the wireless communication facility by suitable for co-location by at least three wireless service providers. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment. This Conditional Use reduces the compatibility height standard to 140 feet since the adjacent property is used for agriculture.
- 5. <u>Impact of the proposed development on community facilities</u>: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, HENTZEN seconded the motion, and it carried (13-0).

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- 3/3. SUB2002-00038 Final Plat SEDGWICK COUNTY ELECTRIC COOPERATIVE ASSOCIATION ADDITION, generally located on the west side of 383<sup>rd</sup> Street West and on the south side of U.S. Highway 54.
- A. This plat will be subject to approval of the associated zone change and any related conditions of such an amendment. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. Since sanitary sewer and public water are unavailable to serve this property, the applicant shall contact <u>County Code Enforcement</u> to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. <u>A memorandum has been obtained specifying approval.</u> A restrictive covenant is required that prohibits non-domestic uses on the site until public sewer is a vailable.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. <u>County Engineering</u> needs to comment on the status of the applicant's drainage plan.

E. <u>County Engineering</u> needs to comment on the access controls. Distances should be shown for all segments of access control. <u>County Engineering has required complete access control except for one opening along the south 150 feet.</u>

Access controls have been platted as requested.

- F. <u>County Fire Department</u> has advised that the access drive to building needs to be installed prior to a final framing inspection or (if applicable) installed prior to having a structure moved onsite.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the <u>utility companies</u> should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, HENTZEN seconded the motion, and it carried (13-0).

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- 3/4. SUB2002-00053 One-Step Final Plat –RIDGE PORT NORTH FIFTH ADDITION, generally located on the south side of 37<sup>th</sup> Street North and east of Ridge Road.
- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted, including a water supply line along the frontage of 37<sup>th</sup> St. <u>City Engineering</u> needs to comment on the need for other guarantees or easements. The required 15-ft street drainage and utility easements abutting the 32-ft streets need to be labeled.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. <u>City Engineering</u> needs to comment on the status of the applicant's drainage plan. <u>County Engineering has requested a drainage plan for review.</u>
- E. The applicant shall guarantee the paving of the proposed interior streets. For the narrow public 32-foot streets, this guarantee shall be for the 29-foot paving standard. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- F. It is recommended that adjacent Reserves to the south be connected with the streets in this Addition by access easements between the lots to increase their accessibility and usefulness for all homeowners in this Addition.

- G. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- H. City Fire Department needs to comment on the turnarounds platted for the 32-ft streets. The turnarounds are approved.
- I. <u>City Fire Department/GIS</u> needs to comment on the street names. <u>36<sup>th</sup> St. N. needs to be renamed. Brookview Ct shall be renamed as Brookview Cir.</u>
- J. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- K. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- L. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- M. Lot 21, Block A does not conform with the 50-ft lot width standard which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard.
- N. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- O. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- P. The plattor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- U. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the <u>utility companies</u> should be prepared to comment on the need for any additional utility easements to be platted on this property. <u>Westar Energy requests additional easements</u>.
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

MICHAELIS moved, HENTZEN seconded the motion, and it carried (13-0).

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**4.** <u>CON2002-00034</u> – Ten Main Company, c/o (owner), Zach Wood (contract purchaser) request a Conditional Use to allow a car wash within 200-foot of residential in the "LC" Limited Commercial zoning district on property described as:

Lot 11, except the East 150 feet, Block 1, Sunset Heights Fifth, an Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located on the southeast corner of 21st Street North and West Street

**BACKGROUND:** The applicant is requesting a Conditional Use to allow a 24-hour car wash to be located within 200-ft of residential in the "LC" Limited Commercial zoning district. The application area is the western half of Lot 11 Block 1, Sunset Heights 5 Addition, and is approximately 0.95 acres of the total 1.79 acres. The site is located on the southeast corner of 21st Street North and West Street. The eastern half of the lot is developed as a convenience store and the western half (the proposed site) is undeveloped.

I-235, the Wichita - Valley Center Flood Control easement (the Flood Control easement) and the Big Arkansas River forms the peak of this triangular shaped area and is its northern boundary. These three features spread from this intersection and form barriers that prevent access into the area along its north and west sides. 21<sup>st</sup> Street North provides access from the east where it crosses the Big Arkansas River. Aside from this crossing, the river forms a barrier that prevents any other access from the east. On the northwest side of the site, 21<sup>st</sup> Street ends as it bends into West Street. From there West Street runs parallel to I-235 for a block before it separates from North Westdale Drive and goes south. Both West Street and North Westdale provide access into the area from the south.

The site has "SF-5" zoning on its north, east and south sides, with the exceptions being 4 lots zoned "TF-3", 7 lots zoned "B", a lot on 21st Street zoned "GO" and another lot between West Street and Westdale zoned "LC". The area north of the site, across 21st Street, is a small triangle shaped City Park. The area abutting on the south and the adjacent area east of the site are developed as single family residential. There is a platted 20-foot alley located between the site and the residences/lots south of it. This alley has been developed as an extension of each of the 8 residential lots south of the site, with fences on the rear yards of the lots joining the wooden fence on the south side of the site. There are utilities in this alley. Staff has found no record of this alley being vacated. West of the site is West Street and I-235, and the Flood Control Easement. The site is approximately 90-feet from I-235 with no access to it. The eastern half of the site that is developed as a convenience store has access onto 21st Street on the north and McComas Street on the east. There is no platted access control for the site.

The applicant's revised Site Plan depicts a 5-bay car wash (4 self serve and one automatic) with the open ends facing north to south and placed near the front of the site. Parking and drying stalls are to be located along the front of the site. Access to the site would have to be a joint access point shared with the convenience store located to the east. Vacuums are shown both on the northwest, front of the site, and at the southern entrance to the washing bays. Queuing spaces are out of the circulation area and located at the southern-rear of the site behind a 40-foot landscape buffer. The proposed queuing backs into the entrance of the site and does not interfering with circulation, per reviewed by the Traffic Engineer. Staff has reviewed the revised site plan and enclosed it with the Staff report.

<u>CASE HISTORY</u>: The site is platted as Lot 11 Block 1, Sunset Heights 5<sup>th</sup> Addition, which was recorded February 2, 1956. A triangular portion of the northwest portion lot was condemned in Case A-77197 for I-235 and a smaller portion by Warranty Deed to the City, Book 1501, Page 50. Case No. BZA 11-71 was a request to waive the screening requirement along the south portion of Lot 11, which was denied. CON2002-34 was considered at the July 17, 2002 DAB VI meeting and recommended for denial, 7-0. On July 18, the applicant requested that CON02-34 be deferred from the July 25 MAPC and rescheduled for the August 8, 2002 MAPC, and the August 5, 2002. The applicant made this request to make changes to the site plan.

# **ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5" Single Family Residential City Park
SOUTH: "SF-5" Single Family Residential Single family
"TF-3" Duplex Single family
EAST: "SF-5" Single Family Residential Single Family

"LC" Limited Commercial Convenience Store
WEST: Dedicated Public ROW West Street, I-235

<u>PUBLIC SERVICES</u>: The site has frontage on both West Street & 21<sup>ST</sup> Street North, both four-lane principal arterials. The 2030 Transportation Plan indicates no change for these streets. There are no ATD's at the West Street – 21<sup>st</sup> Street interchange. There are no traffic lights or stop signs at this interchange. Municipal water will have to be extended to the site.

**CONFORMANCE TO PLANS/POLICIES**: The 'Wichita Land Use Guide' of the Wichita-Sedgwick County Comprehensive Plan identifies this property as being 'commercial'. The Unified Zoning Code requires a Conditional Use for a car wash when it is located in "LC" zoning or within 200 feet of residential zoning. The Unified Zoning Code lists 14 conditions that a car wash must comply with. Any modifications recommended by the MAPC to these conditions would require the request to be forwarded to the Wichita City Council for a final decision.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be <u>DENIED</u>. The area to the south and east is overwhelming developed as single-family residential and the few non-residential developments in this area are all indoor based do not generate the outside activity that a car wash does. A car wash would be out of character with the current development in the area.

This recommendation is based on the following findings:

1. <u>The zoning, uses and character of the neighborhood</u>: The area is predominately single family residential, with "SF-5" zoning on its north, south and east sides. The non-residential exceptions are the site itself, with its east half developed as a small convenience store, the "GO" zoned small office development east of the site on 21<sup>st</sup> Street and the "LC" zoned

small strip center southwest of the site on West Street. The north side is developed as a small park with a trail that crosses 21<sup>st</sup> Street and follows the river south. The area west of the site is public ROW (West Street), I-235, to which there is no direct connection to area, and the Flood Easement.

- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial, which accommodates office, retail, commercial and complementary land use. Given the site's location on the two arterials and the residential character of the area, it could be developed for retail, office, commercial or complementary land uses that would be less intense than a car wash.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Because of the site's size, its shape and its proximity to the "SF-5" Single Family residential zoning and development, the detrimental affects of lighting, traffic, noise, hours of operation and other activities that typically accompany car washes would adversely impacting the surrounding residential areas.
- 4. <u>Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies</u>: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" uses. "Commercial" accommodates office, retail, commercial and complementary land use. A car wash would not be considered a 'complementary' land use and in fact is a more intensive use than most other uses permitted in the "LC" zoning district.
- 5. <u>Impact of the proposed development on community facilities</u>: Water would have to be extended to the site, and drainage from the facility would have to be approved by the City Engineer. Circulation and access of traffic onto the site would have to be approved by the City Engineer; the site plan as submitted is unacceptable.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

- A. The car wash shall be developed and maintained in compliance with all the requirements of Section III-D.6.f of the Unified Zoning Code.
- B. The applicant shall submit a revised site plan for approval by the Planning Director, prior to the issuance of the Conditional Use resolution that meets the requirements of Section III-D.6.f. of the Unified Zoning Code. The revised site plan will also include dimensional control and a landscaping plan, which would include the 40-foot landscape buffer between the existing wooden fence on the south side of the site and the 60-foot distance between the car wash structures and the residential zoning.
- C. The materials and design of the facilities shall be residential in character in consideration of the residential zoning and development adjacent to it. No buildings taller than 24-ft.
- D. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- E. Provide a lot split between existing convenience store and proposed car lot to be recorded with the Register of Deeds.
- F. Dedicate joint access between existing convenience store and proposed car lot, to be recorded with the Register of Deeds.
- G. After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the Conditional Use to be declared null and void.

BILL LONGNECKER, Planning Staff presented staff report.

WARREN Item E and Item F in the staff report says car lot and this should be car wash, correct?

LONGNECKER Yes you are correct, it should be car wash, the staff report will be changed.

KIM EDGINGTON, % Austin Miller, When we went to DAB the first time there were problems with the site plan, then we went back to the drawing board and then the DAB approved after the site plan was revised.

The building is nearly 150 feet away from the residential property line. There is a 20 foot alley to the south of this property that has been fenced in by the adjoining property owners, so their property line is actually at this location. So we have a 20 foot alley, a 40 foot landscape buffer and nearly 100 feet from that point. We have met all of the requirements of citing a car wash per the Zoning Code, there are a list of 14 requirements that we have met and we have met all of those requirements.

We have proposed to place a door on the south end of the automatic car wash bay to enclose any noise. We have not proposed any pole light on this site, the only type of lightening that we propose is canopy lightening which is over the vacuum islands. There are four vacuum islands proposed, so there won't be any bright halogen lights, and I know that is a concern of the neighbor's with the convenience store to the east. We have not proposed any signage along 21<sup>st</sup> Street or West Street, the only signage that we have requested is in the form of building signage. Traffic Engineering is in favor of the location of the opening along 21<sup>st</sup> Street. He did request that we expand that opening by 10 feet so that there can be directed left and right turns out of the site.

In the corner of the architect is rendering there is a photo of the existing convenience store to the west, and that is one item that we would like to have removed from staff recommendation: that the building be designed in a residential character. We feel that it probably makes more sense to tie that building into the existing convenience store design to complement that design rather than to attempt to make a car wash look residential in character.

GAROFALO I am looking at this old site plan, and the new site plan and except for the trees I don't see any change.

EDGINGTON You are not seeing the original site plan. All I wanted to show you with the handout is the concept of the planting of the trees.

BISHOP Where are the vacuums?

EDGINGTON There are four vacuum bays proposed.

BISHOP None of them are on the north side?

EDGINGTON No, because they cannot be in the front building setback.

WARREN In Item C where they talk about materials and design of the facilities shall be residential in character in consideration of the residential zoning and development adjacent to it. No buildings taller than 24-ft. If we were to take that sentence out and put that we could accept the design proposal as presented today, would that satisfy you?

EDGINGTON Absolutely.

MCKAY Do you agree to the Advisory Committee recommendation?

EDGINGTON Yes, we will and put the trees in.

GAROFALO Is this going to be a 24 hour operation?

EDGINGTON Yes it is planned for 24 hours operations.

GREG FERRIS with Ferris Consulting, I am opposing this case and representing a number of neighbors that are opposed to this; 70% of the neighbors have filed protest petitions. The location to the residential area that is behind it, you cannot change that. During off peak hours the car wash would be a gathering place and that abuts the neighborhoods' backyards. I don't generally oppose things but this is a very inappropriate location. Noise issues, traffic issue, too close to the neighborhood. In 10 years or 20 years the car wash will look bad. If you build a building it looks like that at first, but in a number of years a car wash will look bad after a while. The neighborhood is very nice, they have nice lawns and the neighborhood is very well maintained. I was unable to go to the DAB meeting because they did not put it at the end of the agenda like I had requested. The neighborhood is in opposition of this. Austin Miller has done a good job on the car wash but it is a small lot, and this does not belong there.

CLAIRE A. ROSS 3817 Cornelson I live within 200 feet of the proposed car wash. The noise is going to be a problem. Traffic is high now, there have been a number of accidents. I don't think the buffer zone is as much as I would like. We have children and the elderly in the neighborhood. At the DAB I didn't know I could speak, but I am in opposition of this project.

EDGINGTON The noise at the peak hours will be low. The owners will monitor the area 24 hours a day, it is in their best interest to keep anybody from loitering. There are a lot of existing trees there already, the owners to the south have a lot of trees there. A 6 foot wood screening fence is there now along this property line. Mr. Wood has other properties that he maintains that abut residential and he has no complaints. They want to be a good neighbor.

WELLS What is the construction of the building?

EDGINGTON Split face concrete block and the roof is a standing metal seem.

MARNELL Have you considered timers on the vacuums to shut them off after 10 p.m. and lock them out after usage after 10 p.m.?

EDGINGTON We are aware of that happening on another case, but that is up to the Planning Commission to make that request.

WARREN We are only talking about a Conditional Use, the zoning is there is LC. There is a lot of stuff that can go in there that can be worse than a car wash.

**MOTION:** To approve subject to staff recommendation except item Item C and to change condition to design as presented by the applicant at MAPC.

WARREN moved ANDERSON seconded.

BISHOP I will be opposed to this, but I am looking for the 14 conditions out of the UZC. Are the conditions met or would it go before WCC because of the protest petition?

LONGNECKER They have met the 14 conditions from the applicant.

BISHOP I know people turn their radio up and open their car doors and the noise is going to be a problem. I think just because something worse can go in there is not something we should consider.

BISHOP, GAROFALO, and BLAKE opposed (10-3).

6. <u>CON2002-00030</u> – Penelope Bellevill requests a Conditional Use to permit a Bed and Breakfast Inn on property described as:

The North Half of Lot 254 and all of Lots 256 and 258, Emporia Avenue, Ferrell's 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located North of 11<sup>th</sup> Street North and east of Emporia

**BACKGROUND:** The applicant is requesting a Conditional Use to permit a Bed and Breakfast to be located in a "MF-29" zoning district. The application area is the northern half of Lot 254 and all of Lots 256 & 258, Ferrell' 2nd Addition, 1208 North Emporia. The site is the 2<sup>nd</sup> house, northeast of the 11<sup>th</sup> Street North and Emporia Street intersection. The site is currently developed as a 3-story single-family residence. According to the Unified Zoning Code (UZC), a bed and breakfast is an owner-occupied or manager-occupied residential structure that provides rooms for temporary lodging or lodging and meals for not more than 15 transient guests on a paying basis. A transient guest is a person who occupies a room for a period of less than one week at a time.

Most of the surrounding properties to the north, south, east and west are zoned "B" multi-family or "MF-29" Multi-family. The exceptions are the property abutting the site on its south side, which is zoned "SF-5" Single-Family Residential, some "LC" Limited Commercial & "GC" General Commercial zoning along 13<sup>th</sup> Street North and two sites zoned "GO" General Office south and east of the site. The sites zoned "B" and "MF-29" are typically large single-family type structures. It is not unusual for these structures to be 2 or 3 story homes.

This area, in which the site is located, is part of the Topeka – Emporia Historic District. This was the first of the City's four residential historic districts. The district's housing represents three periods of architecture and construction in the City's history: the boom period of the 1880's; the Craftsman and Prairie periods through the 1920's; and the post 1940's Minimal Traditional period of construction. The examples of Queen Anne, Gothic, Folk Victorian, Craftsman Bungalow, Tudor Revival, Neoclassical Revival and Colonial Revival housing in this unique district virtually span the founding of Wichita to its post WWII era. There are two homes designated as being local historical significant structures and one home designated as being a national - state historical significant structure within a block of the site. One the homes designated as being a local historical significant structure is on the east side of Emporia facing the site.

Use of these large homes are either as single family residential or converting them into apartments. Both of these uses are permitted by right in the "B" & "MF-29" zoning districts. There is a Bed & Breakfast, on the southeast corner of 11<sup>th</sup> Street and Topeka Street, which was approved 08-25-92 as CUP-DP 208 and Z-3063. Z-3063 changed this site's zoning from "B" to "BB" Office District. At the time of this case a Bed and Breakfast was not permitted as a Conditional Use in "B" zoning, but allowed in the "BB" Office District with a CUP. "BB" zoning is now "GO" zoning.

The applicant's proposal has two phases, with the first having two bedrooms on the 2<sup>nd</sup> floor being used by guests, with each of the bedrooms having access to a screened porch on the 2<sup>nd</sup> floor. The 2<sup>nd</sup> phases would convert two more rooms and allow the dining room to be used for meetings with a maximum of 12-14 participants. The site has space available on site for 4 parking spaces, located off the driveway and at the northeast side of the property. The driveway is shared with the property abutting on the north. This 'mutual agreement to use driveway' was filed with Register of Deeds as a Miscellaneous Record, on 04-18-52. The owner would use two of the parking spaces and the guests using the two-second story bedrooms would use the other two. There is extensive mature landscaping on the site and a 6-foot wooden fence around the backyard. The total square footage of the structure has been given as 4800-square feet with a 340-square foot out-building. The applicant has stated that the income from the Bed & Breakfast would be used to help maintain the house. The applicant has submitted a site plan.

Resolution #233, is a moratorium in the Midtown Neighborhood (which the site and the Topeka – Emporia Historic District are located in) that applies to the processing and granting of building permits for new non-residential construction or additions to lots zoned commercial or industrial within the predominately residential area or the conversion of residential structures in the area. A Bed and Breakfast in "MF-29"zoning would require a change of occupancy and possibly require a building permit. The change of occupancy would be considered a conversion of a residential structure. The moratorium is in effect for up to 6-months or 1-year from May 14, 2002, after which time the City Council will review the progress towards development and implementation of the Neighborhood Revitalization Plan. The applicant has been advised of the moratorium.

The Historical Preservation Board approved the site for a Conditional Use to operate a Bed & Breakfast at their July 8, 2002 meeting. On July 25, 2002 the Historic Midtown Neighborhood Plan Steering Committee moved to deny the Conditional Use request, stating that the request was untimely and premature. This was in reference to the moratorium and the incomplete state of the Mid-Town Neighborhood Revitalization Plan. This motion was defeated with two (2) ayes and ten (10) opposed. A counter motion was made to approve the Conditional Use request with the conditions that (a) only two rooms be provided for guest, i.e., only Phase I of the proposal is recommended, (b) the owner live on the premise, (c) the required 4 parking spaces be on site and (d) the CU be for a 2 year period. The motion noted that the two-year period would allow the time needed to develop and implement the Neighborhood Revitalization Plan and that the Phase I proposal would be the least disruptive for the neighborhood, but allow the applicant to have a bed & breakfast. This motion was approved with eight (8) ayes and four (4) opposed.

CASE HISTORY: Platted as part of Ferrell's 2<sup>rd</sup> Addition, August 11, 1911.

## **ADJACENT ZONING AND LAND USE:**

NORTH: "B" & "MF-29" Multifamily Residential Single Family & Multi-family EAST: "B" & "MF-29" Multifamily Residential Single Family & Multi-family

SOUTH: "SF-5" Single Family Residential Single Family

"MF-29" Multifamily Residential Multi-family

WEST: "B" Multi-family Residential Single Family & Multi-family

Local Historical Site

<u>PUBLIC SERVICES</u>: Emporia is a one-way street going north. 11<sup>th</sup> Street North is a residential street. There are no traffic counts for this location. There are traffic counts two blocks north of this site on 13<sup>th</sup> Street North and Emporia intersection. There are 1,294 ADT's north of the intersection, 1,509 ADT's south of the intersection, 13,992 ADT's east of the intersection and 14,333 ADT's west of the intersection. There is water and sewer available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this property as "low density residential." This category provides for the lowest density of urban residential land uses. Typical uses are single family detached

Single Far

homes, zero lot line units, cluster subdivisions and planned developments with a mix of housing types that may include townhouses, and multi-family units. Schools, churches and other similar uses are also found in this category. The Unified Zoning Code (UZC) permits a bed and breakfast with a Conditional Use in all residential zoning district, with the exception of "MH" manufactured housing zoning.

**<u>RECOMMENDATION</u>**: Based on the information available prior to the public hearing, the MAPD staff recommends the application be APPROVED, subject to the following conditions:

- 1. The applicant shall submit a revised site plan and a landscape plan. The site shall be developed and operated in general conformance with the MAPD approved site plan and landscape plan. The current landscaping will remain in place and identified on the landscape plan. Any proposed improvements to the landscaping will be shown on the landscape plan and approved by the Director of the MAPD.
- 2. There shall be two (2) rooms designated for the bed and breakfast business and there will be a maximum of six (6) transient guests at any one time. These rooms will be shown on a floor plan that will be approved by the OCI, as a condition to obtain the required change of occupancy necessary for a Bed & Breakfast in a single-family residential structure.
- 3. No freestanding signs. A sign identifying the establishment will be mounted on the wall of the house, no more than 12-square feet and using indirect lighting. No neon, flashing or moving lighting. Location of the sign and the materials for the sign will be shown on the revised site plan and be approved by the MAPD.
- 4. Four parking spaces will be provided on the site as indicated on the revised site plan. Two spaces for the owner of the property and 2 spaces for the guests. The parking area will be paved and marked per City Standards.
- 5. The mutual agreement to use the driveway between Lots 260 & 262, Ferrell's 2<sup>nd</sup> Addition (the abutting northern property) and the north ½ of Lot 254 and Lots 256 & 258, Ferrell's 2<sup>nd</sup> Addition, (subject property) shall remain in effect. No blocking of the drive by guest to prevent access into the abutting northern property is permitted. Access to the site will remain from Emporia via this mutual driveway.
- 6. The existing 6-foot wooden fence in the back yard shall remain and be maintained or replaced with comparable and approved solid screening, per the UZC. The solid screening will be shown on the revised site plan and the material identified.
- 7. Because the site is located in the Topeka Emporia Historical Landmark District, any proposed exterior modifications that require the issuance of a building permit by OCI would be subject to review and approval of a certification of appropriateness by the Wichita Historic Preservation Board and City Council.
- 8. The applicant shall obtain all inspections, permits and license from the City, prior to operating the Bed & Breakfast.
- 9. The owner or the manager of the Bed & Breakfast will reside in the primary structure.
- 10. The current existing ground level solar lights for parking and the walks and the existing floodlights for the back yard will be identified on the revised site plan. Any additional proposed lighting must be approved by the MAPD.
- After a review of the development and upon appropriate findings, any violation of the conditions of approval will allow the Conditional Use to be declared null and void. This Conditional Use shall be effective for a two-year period from the date of the final approval. At the end of the two years the CU may be extended by seeking a renewal of the CU by following the Conditional Use review procedure as specified in the Unified Zoning Code. If the renewal is not sought by the end of the 24<sup>th</sup> month, the CU shall be null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The Topeka-Emporia Historic District is one of the four residential historic districts in the City. These large single-family structures are still primarily used as single-family residences, although there has been conversion of some of the structures to apartments. The zoning is predominately "MF-29" and "B" multi-family. There is only one property zoned single family residential in the district; the property abutting the site's south side is "SF-5".
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "MF-29" multi-family. The site is too small to be developed at that density. The intent of the Topeka-Emporia Historic District is to preserve 'contributing elements' in the historic district. The structure on this site is a 'contributing element' and its "MF-29" zoning is not suitable for the site
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Conditional Use permit for a Bed and Breakfast on the site will encourage the preservation of the current structure with a minimal amount of change in its current use, unlike the potential change allowed by the site's current "MF-29" zoning. The detrimental affect of the CU on the nearby properties will be minimal as opposed to the possible detrimental affects of developing the property as apartments, which is allowed by right in "MF-29" zoning.
- 4. <u>Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:</u> The Comprehensive Plan identifies this property as "low density residential." Part of the current research and work being done in the Midtown Historic Neighborhood Plan is addressing the disparity between the Comprehensive Plan's identification of

area as "low density residential", the area currently being almost entirely zoned "MF-29" and "B" and the preservation of the historic single-family structures. The moratorium will prevent any change to the residential neighborhood for a possibly up to a year. The CU for a Bed & Breakfast would encourage preservation of the current structure, with the possibility income generated by the business being invested in the maintenance of the structure. The CU for a Bed & Breakfast would be being less disruptive to the area than a multi-family use. If there were no internal structural changes required by the conversion of 2 bedrooms for Bed & Breakfast guest, the change of occupancy would be allowed.

- 5. <u>Impact of the proposed development on community facilities</u>: Minimal, with consideration that all parking would be on site and the parking area improved with a minimum an asphalt parking area. City utilities would remain as they are.
- 6. <u>Neighborhood support or opposition of the request:</u> The Historic Midtown Steering Committee has been actively involved and they are supportive of the request subject to the noted conditions.

BISHOP indicated she has a conflict of interest and will abstain from this Item.

BILL LONGNECKER, Planning Staff presented the staff report.

CHUCK RUDDLE applicant, The owner bought the property with the hope of establishing a bed and breakfast about two years ago. I think the issue that the Commission has to decide is, do we have long-term guests or short-term guests in the MF-29 location. That is what we are looking at. I have some comments about the staff recommendations. Item #4 is for a paved parking area. The owner doesn't want to do that. The oldest tree on the location is an oak and the root structure is under the area that is being proposed to be paved. We have asked the neighbors next door if we can use their parking, and we can get a rental agreement for us to use their cement slab. So we don't want condition #4. Only two rooms are to be rented.

KROUT Has the parking issue been discussed by staff? This is first I have heard about this.

LONGNECKER Parking was shown located off the drive on the site plan. Paved parking would be required for this type of operation. The applicant has made a point that they don't want it paved because of the tree that is abutting the parking space. Staff does not recommend off-site parking. We could ask the Park Department if the paving would be a problem for the tree.

MICHAELIS What about Condition 2, there shall be two (2) rooms designated for the bed and breakfast business and there will be a maximum of six (6) transient guests an at one time. So only 6 people can occupy those two rooms? What if they are all adults and they all have cars? Where would they all park?

KROUT All of our parking requirements are based what you would normally see. I don't think that would happen often enough; if it did, there are probably some other laws being violated. The Planning Commission does not have the authority to waive the paving requirement. You can take out the requirement, and that would eliminate one more obstacle if he wanted to pursue not paving it. I think we can do this with a BZA, or possibly by adjustment.

HENTZEN I don't want you to pave over those tree roots. It could damage the roots and I don't want that so I think staff should work with the applicant.

GAROFALO What is with the two-year Conditional Use permit only?

LONGNECKER It has gone to the DAB, Historic Midtown Steering Committee, and there is in the works a revitalization plan for the Midtown area. Part of that is to look at the zoning of this area. What I heard from this group is that most of these properties are large single-family residential homes. What they have for zoning is MF-29 and B covering almost all of these structures, with the exception of one. As a result of the zoning a lot of these structures are being converted into apartments. However there is a resolution that prevents any building permits from happening in this district for a period of at least six months, dating from May 2002 for a year. The group was looking to accommodate the applicant for a bed and breakfast. The moratorium could be over within a year. The City Council will look at this moratorium and decide if they will continue it or have it end.

GAROFALO Is a building permit needed?

LONGNECKER A change of occupancy will have to be obtained.

GAROFALO If a building permit is required by OCI, then the moratorium will take effect.

MICHAELIS What if we approve this and then OCI says that it won't work.

KROUT It is still under the moratorium. The OCI and Planning Director need to agree, but they have the ability for administrative approvals and exceptions. The use is the issue, not whether there is a permit or not. Administratively it will be approved if the CU is approved.

JOHNSON Does the condition on the two years have to be here?

KROUT I think that is a question for the Conditional Use. If you require this only to be allowed for two years they will have to come back to renew it.

**MOTION:** Approve, subject to staff requirements and conditions, except that they be asked to work out the parking and not pave the area with the tree roots.

**HENTZEN** moved, **BLAKE** seconded the motion, and it carried (12-0-1) **BISHOP** abstains.

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7. <u>CON2002-00036</u> – Thomas and Grace Yun (owner/applicant); Meridian Construction Company, c/o Darrell Leffew (agent) request a Sedgwick County Conditional Use for self-service storage warehouse on property described as:

Lot 1, Cypress Addition, Wichita, Sedgwick County, Kansas. <u>Generally located On the west side of Broadway</u> approximately ¼ mile north of 47<sup>th</sup> Street South

**BACKGROUND:** The applicant owns a restaurant located at 4552 S. Broadway and proposes to add a self-storage business on the same lot, immediately west of the existing restaurant. The proposed self-storage area is currently undeveloped. The subject property is zoned "LC" Limited Commercial. Self-Service Storage Warehouse requires a Conditional Use in the "LC" Limited Commercial zoning district; therefore, the applicant is requesting a Conditional Use on the entire subject property. The character of the surrounding area is that of general commercial uses along the Broadway Avenue corridor and single-family residential uses to the west of that corridor, surrounding the application area to the north and west.

The attached site plan indicates that the storage building will function as site screening to the north and west, a portion of the west property line will be screened with a concrete screen wall. The agent indicated that the storage building exteriors would be clad in a stucco simulating concrete product material, known as hardy board; and roofed with an aluminum panel material at a  $\frac{1}{2}$  - 12 pitch. The application area is in the FEMA designated 100-year flood-plain, raising site development and drainage concerns. The proposed site plan does not conform to one of the Supplementary Use Regulations of the Unified Zoning Code (UZC) for Self-Storage Service Warehouses; the site plan indicates a 10-foot landscaped buffer where abutting residential zoning, the UZC requires a 15-foot landscaped buffer at this location.

The Compatibility Setback Standards of the UZC are more strict than the Supplementary Use Regulations for Self-Storage Warehouses. The UZC Compatibility Setback Standards call for a minimum of 15 feet setback plus one foot for each five feet of lot width (of the subject lot) over 50 feet, not to exceed a 25 foot setback. Therefore, the UZC Compatibility Setback Standards require any non-residential use on the application area to have a 25-foot setback from the north and west property lines, where abutting residential zoning.

**CASE HISTORY:** The subject property is platted as a part of Lot 1, Cypress Addition in 1974.

#### ADJACENT ZONING AND LAND USE:

NORTH: "GC", "SF-5" Hotel, Single-family residences

SOUTH: "GC" Auto repair

EAST: "GC" Auto repair, Camping trailer sales

WEST: "SF-5" Single-family residences

**PUBLIC SERVICES:** Access to the subject property will be through the existing restaurant site from Broadway Avenue, which is a four-lane arterial street with a 50-foot half-street right-of-way at this location. The current traffic volume on Broadway is approximately 15,084 vehicles per day. The 2030 Transportation Plan designates Broadway as remaining a four-lane arterial and estimates that the traffic volume will increase to approximately 19,000 vehicles per day. Traffic generated by the property, if used for self-storage, will be significantly less than the traffic potentially generated by other uses permitted in the "LC" Limited Commercial zoning district. The subject property can be served by municipal water and sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the requests be <u>APPROVED</u>, subject to an updated site plan which designates a 25-foot landscape buffer along the north and west boundaries, and subject to the following conditions:

- 1. The requirements of Section III.D.6.y. of the Unified Zoning Code (attached) shall be met.
- 2. The applicant shall submit storage building elevations to be approved by the Planning Director.
- 3. The storage buildings shall have exteriors of a stucco simulating material, and shall be earth-tone in color.
- 4. Screenwalls shall be of a concrete or masonry material, and shall be consistent in color with the storage buildings.
- The applicant shall submit a landscape plan to be approved by the Planning Director.
- 6. The applicant shall submit a site drainage plan, prepared by an engineer, to be approved by the Director of Public Works.
- 7. The site shall be developed in general conformance with the approved site plan and elevation drawing.
- 8. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
- 9. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of general commercial uses along the Broadway corridor, and single-family residential uses to the west of that corridor. The properties to the north, south, and east of the subject property are zoned "GC" General Commercial; the properties to the west are zoned "SF-5" Single-Family Residential. With appropriate buffers, landscaping, and design, the proposed use should be in character with the commercial and residential surrounding areas.
- 2. The suitability of the subject property for the uses to which it has been restricted: The subject property is suitable for the uses permitted in the "LC" Limited Commercial zoning district. However, the subject property does not directly front the arterial street, so the property is less suitable for the retail uses that typically occupy property zoned "LC" Limited Commercial. Such uses also would be more intrusive to the single-family residential west of the subject property than the proposed self-storage use that provides significant buffers to reinforce the boundary between residential and non-residential uses.
- 3. <u>Extent to which removal of the restrictions will detrimentally affect nearby property</u>: The recommended conditions of approval should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
- 4. <u>Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies</u>: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The proposed use of the subject property adheres to these Commercial Locational Guidelines.
- 5. <u>Impact of the proposed development on community facilities</u>: Community facilities should not be adversely impacted.

JESS MCNEELY, Planning Staff, presented the staff report.

WARNER You indicated a masonry wall is required.

MCNEELY It is a combination actually. The western boundary is a portion of that western property line. They will utilize the storage buildings as screening. About the southern half of that property line will have some form of masonry screen wall as the screening.

BISHOP It requires a 15 foot landscape buffer. The 10 foot easement, is that from the property line?

MCNEELY To their screening, which is in fact their property line.

DARRELL LEFFEW, Meridian Construction Company, The applicant can comply with the conditions.

LARRY L. DALE, 161 Shadeyside, Wichita, KS 67216 I am opposed to it because it will ruin my view out my back door. Is there going to be a fence from my property line to keep people off my property? What will it do to my property values? What about crime? The barbwire fence, is it going to be replaced? We would like to have a fence between our properties.

MICHAELIS Is the building going to act as the fence on the north side there?

MCNEELY Along the north property line the building itself will be acting as the fence.

JIM KELLY 4600 S. Main, Wichita, KS 67217, 200 feet of the west side of this property. I am not against this, but who enforces the rules after it is built? They built the motel with no sight screening on it. The recommendation for the 25-foot landscape buffer it would be nice if that was fenced in so people couldn't get in there in the backside. I would like to know how high the walls will be that I am going to be looking at that, which will be about 25 foot from my property line? Is there going to be security lighting which is going to keep my yard lit up?

MICHAELIS You can contact OCI on the other complaints.

MCNEELY The builder is here if you would like to ask him about the height of the building or about the landscape buffer.

LEFFEW Many storage units are typically 9 foot high on a side wall. These are backing up to the property line and would actually slope to the back slightly, and with a 25 foot barrier we have room to handle the drainage. So that won't be an issue. That makes the elevation of the back wall at  $\frac{1}{2}$  to 12 pitch, and we are 15 feet wide, so 7  $\frac{1}{2}$  inches lower than 9 feet. So less then 9 feet will be the height of the back wall.

WARNER Are you going to put a fence up there?

LEFFEW There is a fence there. The plan is to use the building as a barrier. No plan for fencing, no.

JOHNSON Are there doors on the north or the west side?

LEFFEW No.

JOHNSON I don't want any doors on the north side.

LEFFEW The UZC does require a few things on that.

BLAKE Can you put a fence up there?

LEFFEW I am sure my client will do that. It is zoned LC, so he was looking at different things there. He is one of the properties that are adjacent to this proposed warehouse.

BISHOP What about lighting?

LEFFEW Lighting per Code. It will be only be on the sides of the building. Lighting will all be on the building.

KELLY Who is going to mow this? They don't mow it now.

MICHAELIS You will need to see OCI for conformance to conditions.

KAREN S. DALE, 161 Shadyside, Wichita, KS 67216 We need the fence because there will be kids there.

LEFFEW The fence I don't think is an issue. The applicant is willing to accommodate them.

KROUT The Code requires they put up a screening fence, and substitute the back of the wall with no openings or a screening fence. But, I think the Code is going to require that they have a screening fence, not just a chain link wire fence, but a screening fence. I would also suggest that light be confined to be attached to the buildings.

MCNEELY We are requiring a 25 foot buffer between the residential properties and where the screen wall will start, and we have already discussed the screen wall. Much of this building is going to serve as the screening wall, and a remainder of a portion of this application a will be screened with a concrete masonry wall. I think the question is the 25 foot space between some of these peoples property, and that screen wall.

MICHAELIS A fence.

MCNEELY Yes, a fence that people can not jump over.

<u>MOTION:</u> Approve, subject to staff recommendations and findings, with the requirement for a fence on the property line, and outdoor lighting to be confined to the type that is attached to the building wall.

BLAKE moved, BISHOP seconded the motion, and it carried (13-0).

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**10.** <u>ZON2002-00038</u> – Randall L. Lance (owner) request a Sedgwick County Zone change "RR" Rural Residential to "LC" Limited Commercial on property described as:

The South 258.71 feet of the East 208.71 feet of the Southwest Quarter of the Southeast Quarter of Section 16, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. <u>Generally located North side of 53<sup>rd</sup> Street North and approximately ¼ mile west of Ridge Road.</u>

**BACKGROUND:** The applicant requests a zone change from "RR" Rural Residential to "LC" Limited Commercial for "vehicle repair, limited", on a 1.1 acre unplatted tract located on the north side of 53<sup>rd</sup> Street North, approximately ¼ mile west of Ridge. The property is located within the zoning area of influence for the City of Maize.

The surrounding area is mixed with agricultural and large lot rural residential uses in the majority of the vicinity. However, the abutting property to the north is zoned "LI" Limited Industrial and is the bus storage facility for the Maize school district. The abutting property to the west is zoned "GO" General Office and is in office use. The adjoining tract is the office facility for bus facility and the next property is a private office. A sand pit is located approximately 1/8 mile to the northeast, and a sand and gravel extraction operation is located about ½ mile to the northwest. The nearest urban area is the City of Maize, which is located 1 1/2 miles west of the site.

**CASE HISTORY**: The subject property is unplatted.

## **ADJACENT ZONING AND LAND USE:**

NORTH: "Li" Limited Industrial Maize school district bus storage SOUTH: "RR" Rural Residential Agriculture, large lot residential

EAST: "RR" Rural Residential Agriculture, sand pit

WEST: "GO" General OfficeOffice

<u>PUBLIC SERVICES</u>: The site has access to 53<sup>rd</sup> Street North, a two-lane County arterial street with traffic volumes of approximately 2,000 vehicles per day. The 2030 Transportation Plan projects that traffic volumes on 53<sup>rd</sup> Street North will increase to approximately 5,900 vehicles per day. Municipal water and sanitary sewer service are not available to the site; therefore, on-site water and sanitary sewer service would need to be provided. The property is located within the Equus Beds Groundwater Management District in area where ground water is likely to be within 10 feet of the ground surface.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide, as amended January 2002, of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for "Rural" development. Rural areas consist of land outside the 30 year Wichita urban service area and small city growth areas. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The property to the west of the subject tract is shown as "Office" and the property to the north is shown as "Industrial/Transportation/Utility/Communication", reflecting its use as the Maize bus storage facility.

The Goals, Objectives, and Strategies of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan also provide guidance regarding land use. The Land Use-Commercial/Office section contains a strategy (III.B4) that states, "in those portions of rural unincorporated Sedgwick County outside the projected growth area, limit commercial development to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas." The Land Use-Industrial section contains a strategy (IV.A2) that states, "in those portions of rural unincorporated Sedgwick County outside the projected urban growth area, allow industrial development only when it is agriculturally oriented, dependent upon a natural resource, or, as part of an appropriate expansion of an existing industrial area." The requested zone change to allow a vehicle repair facility is not consistent with the Land Use Guide or the Goals, Objectives, and Strategies of the Comprehensive Plan. The Amended Comprehensive Development Plan 1980-2000 for the City of Maize does not address the subject property.

The City of Maize currently is making major revisions to its comprehensive plan, and those revisions may address the subject property in the future. Preliminary consideration is being given to recommending retail/commercial activity along 53<sup>rd</sup> Street North extending eastward from Maize. Based on this tentative policy, a similar case for "OW" Office Warehouse located about ¾ mile closer to Maize than this request was recommended for approval in 2001 by the Maize Planning Commission, and ultimately approved by the County Commission.

**RECOMMENDATION:** The use of this property for vehicle repair poses a threat to the groundwater supplies in the Equus Bed unless all petrochemical and organic compounds are properly stored and disposed, regardless of the amount of these substances being accumulated. Even if the amount is less than the threshold requiring a permit by KDHE, a potential spill into the groundwater could result in contamination. Even storage of old vehicles and parts poses a threat as a point source from leaking fluids.

The proposed change is in not in conformance with the MAPC Comprehensive Plan and the area is not included in the adopted Maize Comprehensive Plan.

Based on this information and other information available prior to the public hearing and upon the property immediately to the west being shown on the Comprehensive Plan as "Office", planning staff recommends that the request be <u>DENIED</u>, but that "GO" General Office be approved, subject to platting of the property within one year.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding land is zoned "RR" Rural Residential and is used for agriculture or large lot residential uses to the east and south. The area abutting to the north and west is zoned "Ll" Limited Industrial and "GO" General Office, and is used for an office and the Maize school bus storage facility. These two uses are more intense than the other uses in the vicinity, which are rural in character.
- 2. <u>The suitability of the subject property for the uses to which it has been restricted</u>: The site is zoned "RR" Rural Residential, which restricts the site to very large lot residential or agricultural uses. Due to the presence of the "LI" zoning on the north and the "GO" zoning on the west, this tract is less suitable for residential use.
- 5. Extent to which removal of the restrictions will detrimentally affect nearby property: Granting the requested "LC" Limited Commercial zoning will intensify the uses in this rural area by adding to the bus storage use that is considerably more intense than the other surrounding uses. Improper storage and disposal of petrochemicals, organic compounds, vehicles, parts and batteries all pose a threat to contamination of the Equus Beds. Limiting the zone change to "GO" General Office would allow similar intensity as the property to the west and serve as a buffer to the "LI" property to the north.
- 6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested change is not consistent with the Wichita-Sedgwick County Comprehensive Plan policies and strategy guidelines. The requested use is not agriculturally oriented, does not provide necessary convenience services to residents in the immediate area, and is not dependent upon a natural resource. According to the Wichita-Sedgwick County Comprehensive Plan recommendations, the requested use should be located within the urban service area of a city. If future revisions to the Comprehensive Plan for the City of Maize indicate that the subject property should be included in their urban service area, then the requested use may be appropriate at that time if the property meets the other criteria for a commercial use.
- 5. <a href="Impact of the proposed development on community facilities">Impact of the proposed development on community facilities</a>: The requested change would introduce a commercial/industrial land use to an area lacking appropriate community facilities. Fire and crime protection services cannot be adequately provided to a commercial business at this remote location. On-site water and sanitary sewer service for a commercial business at this location would lead to a significant potential for groundwater pollution since the site is located within the Equus Beds Groundwater Management District in a area where ground water is likely to be within 10 feet of the ground surface.

DONNA GOLTRY, Planning Staff presented staff report.

HENTZEN Are you recommending that LC be granted?

GOLTRY Our recommendation is that LC be denied, but GO be approved.

HENTZEN Can this business operate in the GO zoning?

GOLTRY No, he cannot. But they could if they were approved for "LC" zoning, limited to the vehicle repair use plus all uses permitted in the GO district and subject to Protective Overlay conditions that are contained in the last page of the addendum that I gave you from the Maize Planning Commission.

HENTZEN Is the answer yes or no? Are you still recommending denial?

GOLTRY We are recommending denial of the LC and approval of the GO.

JOHNSON Since this is a Maize bus barn facility, and they are wanting to do a containment on hazardous materials or pollution, does the Maize bus barn have this same set-up on it?

ANDERSON left meeting at 3:13 pm.

GOLTRY They felt that this was important for the vehicle repair regardless of what the status is on the Maize bus barn facility. It is likely that the Maize bus barn facility is large enough that it merits closer inspection by KDHE.

JOHNSON Do you know if they are inspecting it?

GOLTRY I do not know what the nature of their inspections are.

JOHNSON How far is this from the City of Maize?

GOLTRY About 134 miles to Maize.

JOHNSON They have the potential to service this area with sewer and water from the City of Maize?

GOLTRY Not yet.

RANDALL L. LANCE, Applicant, I am here to answer any questions.

MICHAELIS Are you in agreement with Maize Planning Commission and staff recommendations?

LANCE Yes.

HENTZEN How long have you been in business?

LANCE About 2 years.

WELLS Have you researched what the requirement is for the EPA approved basin?

LANCE No, not yet.

BISHOP The Maize Planning Commission would be for "LC" for vehicle repair only, so other than that use it would be for GO uses. How would that be accomplished?

GOLTRY It is approved for "GO" uses, plus vehicle repair limited.

BISHOP Our approval, with that language, would work somewhat like a Protective Overlay?

GOLTRY Yes, to include these conditions we would have to do this as a Protective Overlay.

WARREN You would approve it as "LC" with a Protective Overlay restricting it to "GO".

GOLTRY Plus vehicle repair.

GAROFALO The zone change would be "LC" subject to the Overlay.

<u>MOTION:</u> Approve, subject to platting and to the Maize Planning Commission requirements as follows: Zoning shall be "LC" Limited Commercial for vehicle repair only or other uses allowed in the "GO" General Offices district, and subject to the following additional restrictions in a Protective Overlay: 1) The site shall be equipped with a KDHE/EPA approved catch basin for containment of possible spillage of stored hazardous materials and be subject to annual inspection of same. 2) All parking of vehicles will be behind a privacy/screening fence and not visible from 53<sup>rd</sup> Street. 3) Site plan and drainage plan be approved by appropriate agencies. 4) Signage shall conform with County Code.

**WARREN** moved, **WARNER** seconded the motion, and it carried (12-0).

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## MICHAELIS is leaving HENTZEN is taking over.

11. <u>CON2002-00038</u> – R.H. Gump Revocable Trust c/o R.H. Grump (owner); Cricket Communications c/o Kim Wimmer and Nordyke Ventures LLC c/o Mark Nordyke (applicants); Ferris Consulting c/o Greg Ferris (agent) request a Conditional Use for 130-foot high monopole communication tower on property described as:

The West 60 feet of the South 40 feet of the North 137.5 feet of Lot 1, Block A, Gump Addition to Wichita, Sedgwick County, Kansas. Generally located 600 feet east of Woodlawn on south side of Kellogg.

**BACKGROUND:** The applicant is seeking a Conditional Use to permit the construction of a 130-foot high monopole tower (see attached picture) for use by Cricket Communications. The proposed site is zoned "LC" Limited Commercial. Wireless Communication Facilities over 85 feet in height in the "LC" Limited Commercial zoning district may be permitted with a Conditional Use.

The proposed tower would be sited on a 2,280 square foot area located 100 feet south of Kellogg and 600 feet east of Woodlawn. Access to the site is proposed via an existing gravel parking lot for a veterinary clinic located on the parent tract. The applicant's site plan (attached) depicts a 38-foot by 60-foot fenced compound with the tower and the initial ground-level equipment shown in the southwestern portion of the compound. The compound is shown as being enclosed by a six-foot high solid screening fence. Screening of the equipment compound is required by the Unified Zoning Code since the equipment compound is located less than 150 feet from the street right-of-way.

The applicant indicates (see attached memo and propagation plots) that the proposed wireless communication facility is needed for Cricket Communications to provide improved wireless telephone coverage along Kellogg. The applicant indicates that they evaluated using the existing tower at Carriage Parkway, and that it does not meet their communication needs. The applicant also indicates that they pursued constructing a tower on the VA Hospital property, but that the time required to negotiate a lease was too long to meet their needs. Finally, the applicant indicates that there are no towers or tall structures within nearly 1 ½ miles of the subject property; however, there are multi-story buildings located approximately one-half mile east and three-quarters mile west of the subject property.

The character of the surrounding area is a mixture of commercial and residential uses along the Kellogg corridor, with commercial uses located south of Kellogg and residential uses located north of Kellogg. The properties located east, west, and south of the subject property are zoned "LC" Limited Commercial and are used for vehicle sales. The properties north of the subject property are located with the City of Eastborough and are used for single-family residences and recreational uses.

<u>CASE HISTORY</u>: The subject property is a portion of Lot 1, Block A, Gump Addition, which was recorded February 16, 1968. The zoning of the subject property was changed (Z-0913) from "A" Two-Family to "LC" Limited Commercial on February 23, 1968.

# ADJACENT ZONING AND LAND USE:

NORTH: Eastborough zoning Single-family, park and recreation

SOUTH: "LC" Vehicle Sales EAST: "LC" Vehicle Sales WEST: "LC" Vehicle Sales

<u>PUBLIC SERVICES</u>: No municipally supplied public services are required. The site has access to Kellogg Drive, a two-lane access road to Kellogg, a four-lane expressway.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights -of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that the proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. The proposed facility does not utilize existing tall structures in the area. Antennas could be placed on multi-story buildings located approximately one-half mile east and three-quarters mile west the subject property. In an area where extensive beautification efforts, including major renovations to the park in Eastborough, will be undertaken with the Kellogg freeway project, it is important to preserve this visual corridor, which could be accomplished by placing multiple antenna sites on existing tall structures along the Kellogg corridor rather than constructing a tower less than 150 feet from the right-of-way. Doing so also would prevent negative visual impacts on single-family residential and recreational uses located along the north side of Kellogg. The applicant has submitted no site specific radio frequency analyses to substantiate that placing antennas on existing tall structures rather than constructing a tower is not feasible. The fact that the applicant erroneously indicates that there are no tall structures in the area seems to indicate that these options were not explored as suggested by the Wireless Communication Master Plan. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request for a 130 foot tall tower be DENIED; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MA PC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall be 130 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions to 160 feet and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wieless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mixture of commercial and residential uses along the Kellogg corridor, with commercial uses located south of Kellogg and residential uses located north of Kellogg. While a wireless communication facility may be compatible with the commercial zoning along the south side of Kellogg, the visual impact of the tower will impact surrounding residential properties and will detract from extensive beautification efforts planned for the Kellogg corridor and, therefore, is incompatible with the neighborhood.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial, and has been developed with a commercial use. Wireless communication facilities up to 85 feet in height in the "LC" district may be permitted with an Administrative Permit, but must conform to the guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "LC" district that does not conform to the guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The visual impact of the proposed tower will detrimentally affect nearby residential uses and the Kellogg corridor, which is planned for extensive beautification efforts.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. The proposed facility does not utilize existing tall structures in the area. Antennas could be placed on multi-story buildings located approximately one-half mile east and three-quarters mile west the subject property. In an area where the extensive beautification efforts, including major renovations to the park in Eastborough, will be undertaken with the Kellogg freeway project, it is important to preserve this visual corridor, which could be accomplished by placing multiple antenna sites on existing tall structures along the Kellogg corridor rather than constructing a tower less than 150 feet from the right-of-way. Doing so also would prevent negative visual impacts on single-family residential and recreational uses located along the north side of Kellogg.
- 5. <u>Impact of the proposed development on community facilities</u>: FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of

SCOTT KNEBEL Planning Staff presented staff report.

FERRIS CONSULTING, GREG FERRIS, I disagree with staff. The height is really not a problem. To put a pole on top of a building looks bad. Staff is asking us to spend more money, and not have the coverage area that we need. At the DAB, there were some concerns about the visual image of this structure. We are going to construct a flagpole and will put a large flag on it to camouflage the tower. Change C and D conditions and make one condition. Re move condition E, because it will hold 3 carriers. The distance will be back away from Kellogg. We are going the extra mile and make a visually positive image with the flagpole. We would screen with a solid wood fence and submit an amended site plan. Staff recommendations are not feasible from our point.

BISHOP Is the flag going to be removed at night?

FERRIS No. But the flag will have light.

GAROFALO Should this go back to DAB?

FERRIS We don't think it is necessary, because it will go to WCC if Eddy's doesn't approve of what is submitted today. Time is an issue.

GAROFALO Looking at these pictures, this is exactly how this will look?

FERRIS Yes, this is how this will look.

GARY POORE, Mayor of Eastborough, I recommend denial on this as well. I heard the comments about the money we are going to spend on the park.

MCKAY Have you seen those pictures? Would you look at those pictures?

POORE I am not against the flag, but it is still going to be very visible at 130 foot.

ALAN JOSEPH, 22 Willowbrook, Looking from my front porch towards the south, I would see a flagpole or 130 foot tower. The trees will be gone. I am not an expert, but my cell phone works fine at home. I want this request denied.

HAROLD JOHNSON Steven Motor Group, What is being passed out is a statement of opposition, before the revised request. If they want to amend the size of the site, and construct the flag pole design and not the tower design, we will withdraw if the report is amended with a reduced site.

GAROFALO On this picture here, this is Kellogg. Where is this?

JOHNSON Shows a large blown up map. This entire area needs to be cleaned up.

BISHOP Are you aware that one of the conditions that we would require, if approved, is that this facility go as high as 160 feet to accommodate more users, and cut down on the number of towers. Would you still withdraw your objection?

JOHNSON Additional footage would have to look like a flag pole.

BISHOP That photograph is at Broadway.

JOHNSON We would like to have a concrete building and not a wood fence.

MCKAY What land mass does that organization own there?

JOHNSON We represent this corporate office here. We lease this building. We own a 50 foot strip here. We lease and own almost all of this property around this tower.

GAROFALO How tall is your building?

JOHNSON Probably 30 foot tall.

FERRIS Kellogg is going to be a major highway. These light standards will be more visible then a monopole. The visual image from Eastborough, and you were trying to look to see if you can see a flagpole or lights, you will be able to see this. But this is an area that we have looked at from Oliver to Kellogg. There are not other sites.

HENTZEN Do you know when 54, going east, gets to Woodlawn, is it going up or down?

FERRIS It is going down. Up from Rock Road you will probably be able to see it. You will see the signs, etc, and lights.

**MOTION:** I think we ought to defer and send it back to the DAB again since this is a brand new proposal.

GAROFALO moved, BISHOP seconded the motion.

JOHNSON I would like the applicant to get with the property owners. I don't think they are that far apart. I don't see why it needs to go back to the DAB if they can work it out themselves.

MILLER It will have to go back to the DAB because there are new changes and information.

FERRIS There is a protest filed, and it will be going to City Council. Why wait on the DAB meeting? They can hear it, but...

WARREN I agree with the applicant, it can go to the WCC with DAB recommendation and then our recommendation. I see this tower like something we have approved already at Ridge and Central.

BISHOP I think a deferral is a good idea because this is the public hearing, and not everyone has all this new information. I think the DAB ought to be able to see this and help advise.

JOHNSON on the motion to defer, what kind of time period before we hear it again?

MILLER It can be placed on the next MAPC hearing. But the DAB can hear it at any time.

MARNELL What would transpire in those two weeks?

JOHNSON If they can work something out with the applicant and the agent within the next two weeks, I will vote for approval.

MCKAY I think the opposition and the people asking for the approval have already worked it out.

## SUBSTITUTE MOTION: Defer for two weeks.

JOHNSON moved, BISHOP seconded, and the motion failed (4-5). MARNELL, MCKAY, WARNER, HENTZEN and WARREN.

WARREN moved MARNELL seconded.

<u>MOTION:</u> To approve subject to changes in Conditions C & D as redrafted, and delete Condition E, with the requirement for a flagpole and reduce the size of the site.

WARREN moved, MARNELL seconded the motion, and it carried (7-2). GAROFALO and BISHOP opposed.

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**20N2002-00045** – Jeffrey B. Van Asdale (owner) request a Zone change from "LC" Limited Commercial to "GC" General Commercial on property described as:

Lots 15, 16, 17 and 18, Block 1, Roe Addition to Wichita, Kansas, Sedgwick County, Kansas. On the southwest corner of 31st Street South and Wichita Street

Generally located

**BACKGROUND:** The applicant is requesting a zone change from "LC" Limited Commercial to "GC" General Commercial on a 1.0-acre tract located on the southwest corner of 31<sup>st</sup> Street South and Wichita Street. The proposed use of the property is for warehouse, self-service storage units, although the applicant did not request a protective overlay to restrict the property to only this "GC" use.

The surrounding area has high intensity commercial and industrial uses to the east toward Broadway (vehicle sales and vehicle storage), but is mostly residential uses to the north, south and west. More specifically, the adjoining property to the south is zoned "LC" and "B" Multi-Family and is developed with a new group home owned by the Mental Health Association Group. The property to the west, along Waco, is zoned "LC" along 31st Street South and is developed with a small commercial building. Immediately to the south along Waco, the property is zoned "SF-5" Single-Family and is occupied by a house with a large number of vehicles, although it is not zoned for this use. The property to the east of Wichita Street, along 31st Street South, is zoned "GC" and "SF-5", and includes a commercial building and an American Legion lodge, with vacant property south of the lodge. The property on the north side of 31st Street South is zoned "SF-5" Single-Family and "B" Multi-Family and is developed with residences.

Self-service warehouses are permitted with a Conditional Use in the "GO" General Office and "LC" Limited Commercial districts, subject to 19 specific conditions requiring landscaping, architectural review, restrictions on outdoor storage, lot coverage, and use of rental space by individual businesses. Self-service warehousing located in the "GC" district does not have to comply with these restrictions.

**CASE HISTORY:** The site is platted as Lots 15-18, Block 1 of Roe Addition, recorded September 8, 1954.

## ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"; "B" Single-family residential SOUTH: "LC"; "B" Group home, single-family residential EAST: "GC"; "SF-5"; "LC" Commercial, lodge, vacant WEST: "SF-5"; "LC" Commercial, residence

<u>PUBLIC SERVICES</u>: The site has access to 31<sup>st</sup> Street South, and is ¼ mile west of Broadway. Right-of-way width on 31<sup>st</sup> Street South, a four-lane paved arterial, is 50 feet from centerline. Current traffic counts on 31<sup>st</sup> Street South averages 8702 trips per day; the 2030 Transportation Plan anticipates 12,500 trips per day, and designates 31<sup>st</sup> Street South to remain a four-lane arterial at this location. Normal municipal services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The proposed site is shown as a "revitalization" area on the "Wichita Residential Area Enhancement Strategy Map" of the *Comprehensive Plan.* Well-designed residential infill development is to be encouraged in revitalization areas by zero-tolerance code enforcement, public investment in capital improvements and infrastructure, financial incentives, and flexible regulations for physical improvements. Many of the residences in the area are in good housing condition and the group home has been added on the adjoining property in recent years.

**RECOMMENDATION:** Rezoning the property "GC" General Commercial would be out of character with the zoning and uses in three directions; rezoning to "GC" would also allow warehouse, self-service storage units to be constructed without regard to the supplementary regulations of the Unified Zoning Code. The supplementary regulations are designed to lessen the impact of ministorage units on nearby residential uses. They include landscaping, use of materials compatible with surrounding residential use, presence of an on-site manager and other requirements to ensure the units do not pose a safety threat or nuisance to the neighborhood. In the absence of these requirements, the only safeguards would be the UZC requirements for compatibility setbacks that would require a 25-foot setback and landscape buffer along the southern half of the west property line.

Based upon these considerations and the information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The surrounding area to the west, north and south is mostly single-family dwellings on property zoned "SF-5" Single-Family, except for the adjoining property located along 31<sup>st</sup> Street South. This property is zoned "LC" Limited Commercial and is developed with a small commercial building. Although many vehicles are stored on the property to the west of the application area, there is also a residence on this property and the vehicle storage use is illegal, as confirmed with the Office of Central Inspections. The property immediately to the south of the application area is zoned "LC" and "B" and is developed with a new group home for the mentally challenged. The properties to the east consist of a commercial building zoned "GC", a car lot, and a fraternal lodge. The fraternal lodge also owns some undeveloped lots. Overall, the subject property represents the transition tract between high intensity commercial uses to the east between Wichita Street and Broadway and low density residential development in most of the area to the north, south and west of the application area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial, which accommodates a wide range of commercial uses. The proposed use, mini-storage warehouses, could be developed as a "Conditional Use" with the current "LC" zoning. In this case, the resulting development would be more compatible with the nearby residential uses. The site is small, only 189' X 222' after dedication of the standard 60 feet of right-of-way for arterial streets. This would limit the scale of mini-storage use to a relatively few units.
- 7. Extent to which removal of the restrictions will detrimentally affect nearby property: The site could be developed with ministorage units out of character with the residential neighborhood that is generally in good condition. It could result in low quality buildings sited on the property line with the adjoining group home to the south. There would be no safeguards to protect the neighborhood from vandalism resulting from unattended mini-storage projects. Landscaping would be sparse and mostly required along 31<sup>st</sup> Street South. Finally, other permitted uses in the "GC" district that are incompatible to nearby residential areas could be established. These uses would include vehicle sales and outdoor vehicle storage.
- 4. <u>Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies</u>: The current "LC" zoning complies with the recommendations of the Land Use Guide to the Comprehensive Plan. Placement of ministorage warehouses in close proximity to residential development without requiring the supplementary use regulations of Article III, Section III-D.6.y is contrary to the Comprehensive Plan's recommendations for mitigating impacts of commercial development on residential uses. Further, it would be a destabilizing influence on a neighborhood identified in need of revitalization.
- 5. <u>Impact of the proposed development on community facilities</u>: The development would have a negligible impact on water and sewer services and traffic generation.

JESS MCNEELY, Planning Staff presented the staff report.

HENTZEN If he gets this zoning request, can they do what they are proposing to do by right?

MCNEELY Yes, they will be able to do it by right.

HENTZEN But if it is LC now, they could apply for a Conditional Use.

MCNEELY Yes.

HENTZEN You are saying you want GC denied. Have you thought about them asking for a Conditional Use?

MCNEELY We would ask the applicant to do that, but they would have to reapply for the Conditional Use.

GAROFALO Have you talked to the applicant?

MCNEELY When they submitted the application, yes.

HENTZEN What did the DAB do?

MCNEELY The applicant did not show up so, the application was denied by the DAB.

JOHNSON Let me see the zone map.

HENTZEN The applicant is not here. The applicant is not here, okay.

**MOTION:** To deny request per the findings and recommendations in the staff report.

MCKAY moved, GAROFALO seconded the motion, and it carried (9-0).

**ZON2002-00042** – Shirley Gross (applicant/owner); Winter Architects, c/o Daniel Winter (agent) request an addition to the "OT-O" Old Town Overlay on property described as:

Lots 91, 93, 95, and 97 on Douglas Ave., Hyde's Addition, Wichita, Sedgwick County, Kansas Generally located on the southeast corner of Douglas and Ida

**BACKGROUND:** The applicant is requesting addition of .41 acres to the "OT-O" Old Town Overlay District, on property zoned "LI" Limited Industrial. The property is located on the southeast corner of Douglas and Ida Streets. The site is occupied by a traditional commercial/warehouse building with a zero lot-line storefront on the Douglas sidewalk, an unpaved parking area at the Douglas and Ida intersection with access from Douglas and Ida, and alley access from Ida. The application area building has a party wall with the bordering building to the east; the building to the east is under the same ownership. The application area building currently is partially used for a tattoo/piercing business; the applicant has indicated that the tattoo/piercing use will move to the building east of the application area, as the tattoo/piercing use is not a permitted use within the "OT-O" district.

The applicant intends to develop a drinking establishment, and pave and landscape the intersection area. However, without the parking provisions of the "OT-O", the applicant would not have enough on-site parking to develop a drinking establishment. The "OT-O" Old Town Overlay District has reduced parking requirements when compared to most other zoning districts, and has provisions which allow for the use of off-site shared public parking spaces by property owners in the Old Town Parking District by paying a monthly fee, in lieu of providing the parking directly.

However, inclusion within the "OT-O" zoning district does not automatically include the property within the Old Town Parking District. A separate ordinance will have to be prepared and approved to include the site in the Old Town Parking District. Until the property is included in the parking district, the applicant will need to provide parking as required by the appropriate sections of the code.

If this request is approved, the underlying zoning on the property would remain "LI" Limited Industrial, but the property would become subject to the design, signage and parking requirements of the "OT-O" district. The "OT-O" district also permits a wider range of uses, including residential uses that are not permitted by the existing "LI" zoning.

All Surrounding properties are zoned "LI". North of the application area, across Douglas, is a row of traditional commercial buildings recently renovated and housing a candy shop, a framing gallery, and a kitchen-remodeling store. Also north of the application area, across Douglas, is an auto repair business, and several furniture stores. South of the application area is an air conditioner business, and other industrial and warehouse uses. West of the application area is a used car lot, a communications business, and apartments. East of the application area are a wig store, vacant storefront and lots, and a surplus store. Northw est of the application area is a Quick-Trip convenience store, and approximately 400 feet northwest of the application area is the "OT-O" Old Town Overlay District "proper". One other "OT-O" "island" exists on the south side of Douglas, it is also a drinking establishment, and exists between Washington and Rock Island Avenues. The East Douglas Historic District lies approximately 900 feet to the west of the application area.

**CASE HISTORY**: The property was replatted as Hyde's Addition in 1984.

# ADJACENT ZONING AND LAND USE:

NORTH: "LI" Limited Industrial retail, auto repair, convenience store

SOUTH: "LI" Limited Industrial Industrial/warehouse

EAST: "LI" Limited Industrial retail

WEST: "LI" Limited Industrial used car sales, retail, multi-family development,

eating and drinking entertainment

PUBLIC SERVICES: All normal public services are available. Douglas has a 110-foot right-of-way; Ida has an 80-foot right of way.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" of the "Wichita-Sedgwick County Comprehensive Plan" identifies the application are as "commercial" and within one block of the area covered by the "Development Plan for Downtown Wichita" (June 1989). The Downtown Plan does not provide specific land use recommendations for the area, but identifies the area north of Douglas, to include Douglas frontage, and east of the railroad tracks, as the "Old Town/Rock Island Rehabilitation" challenge.

The Downtown Plan includes a goal of mixed-use development, and also specialty retail centers catering to a wider regional market. The goal encourages the specialty centers "to be attractive enough to draw regional traffic after work and on weekends".

Should the application area be approved for "OT-O", the "OT-O" design guidelines would be adhered to in renovation and development of the application area. To receive a building permit, all projects within the "OT-O" must be reviewed for architectural compatibility and conformance with the "OT-O" design guidelines. These guidelines should improve the visual character and quality of the application area, similar to the character and quality of the Cero's Candy, Kitchens Plus, and City Gallery buildings directly across Douglas.

**<u>RECOMMENDATION</u>**: Based upon information available prior to the public hearings, planning staff recommends that the request to create this addition to the "OT-O" District be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the site is zoned "LI" Limited Industrial and is developed with a mix of retail, industrial, eating/drinking entertainment, multi-family housing, and auto sales and service uses. The application area is on the fringe of the existing "OT-O" "proper", with one other "OT-O" "island" on the south side of Douglas. The area is in a potential expansion path of the Old Town district, and is likely to experience increasing pressure for conversion to entertainment or specialty shopping uses. The design guidelines of the "OT-O" should bring the application area more in character with surrounding redeveloped properties.

- 2. The suitability of the subject property for the uses to which it has been restricted: The site could be used for many commercial uses as it is currently zoned. However the "LI" district requires parking to be provided. This would stifle redevelopment for uses with greater parking requirements, including restaurants, entertainment and retail. The overlay district provides a mechanism for handling the parking more flexibly. Additionally, residential uses are prohibited in "LI" except when included within the "OT-O" overlay.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Increased demand for parking could occur within the immediate vicinity of the application area. This could add congestion and conflicts for the existing uses in the vicinity that are operating on weekdays. Ideally, parking would be provided for on site and within "OT-O" parking areas
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with core area redevelopment efforts supported by the *Development Plan for Downtown Wichita* in that this would represent an expansion of the Old Town/Rock Island Rehabilitation zone.
- 5. <u>Impact of the proposed development on community facilities</u>: Conversion to uses that increase in the demand for parking spaces could put more pressure on the City to purchase and improve more land for public parking, and the fees charged to property owners in the Parking District are not sufficient to pay the entire cost of providing public parking, which means the City could continue to subsidize parking in this area as it has throughout Old Town. Should immediately surrounding properties also be included in the "OT-O", it is reasonable to expect that the infrastructure of streets, drainage, lighting, etc. will be upgraded as they have been south of Second Street, and the City has previously shared in those costs.

JESS MCNEELY, Planning Staff, presented the staff report.

WARREN Where is the border to Old Town District?

MCNEELY Right here.

GAROFALO Parking questions, who owns what parking?

WELLS Is the existing OT-O District and these islands, are they outside or adjacent to this?

KROUT About 300 to 400 feet away.

DANIEL WINTER, Winter Architects, We designed this as a coffee bar. We have money problems. Then parking becomes a problem. Instead of 31 spaces, we need 46 spaces. Staff recommended that we do an OT-O, then it would be 31 like it is just a block away. That is why we are here.

MCKAY You are aware you have to pave the parking? What is the plan for levels 2 and 3 of the building?

WINTER No plan yet.

MCKAY Apartments?

KROUT By putting the overlay on you also introduce the residential possibility for the 2<sup>nd</sup> and 3<sup>nd</sup> floor, which is not available under the industrial zoning. But, let's say it was developed residential under the OT-O. If they can't provide additional parking, they have the option of paying a fee of \$10 per month into the parking district. The City takes that money and eventually, when they think they have a plan to create some public parking in the area, like they have done public parking lots and garages, and they think the problem is serious enough, they will create some sort of parking. It might be off-street parking. They might take a car lot down the street or a vacant lot and create a parking lot. Or they may decide the best thing to do on this stretch of Douglas is to create on-street parking, diagonal parking.

MCKAY What is the distance between your business and Ida?

WINTER Sixty feet.

MARK STEINER, 1003–1015 Douglas, Our concern is the parking. We have apartments, and we are afraid they are going to be overflowing into our lot. The loitering, trash and increased traffic are negative to the residents. We have put a lot of money into our building, and we have kept the area up. Keep the bars in Old Town.

BISHOP The issue with this case is the parking. The applicant can sketch out three options. The applicant can reduce the occupancy.

STEINER We don't want to see the overflow parking. Old Town parking is 2 blocks away.

JOHN KNIPP 120 Ida, We need access to our doors, and if anyone is parking in front of my doors, then I will have a problem. The QT down the street, we had a clean neighborhood. I am sure I will probably have extra cars, foreign material. I have a loading ramp on my facility. There are saf ety issues with the business that we run. That needs to be more GI or Industrial zoning. I am not opposed to having a bar, but they will be so close to where I am working and where my people are.

GAROFALO Is that your property here?

KNIPP I have 13 lots. I probably have 50 or 60 parking stalls. One day a year, like the Riverfest, I didn't mind, but I will not be friendly with my neighbor if it happens day in and day out.

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RICHARD VELETE I think that we need to go back to the drawing board and have some design control. We haven't had very much time to have input. I feel like diagonal parking should be looked at more. I would appreciate more of a deferral.

HENTZEN Three weeks, four weeks?

WINTER My office is at 1<sup>st</sup> and Washington, and everything they are saying I deal with on the same bases. I work on the weekends and some nights, and I have troubles parking too. There are pro's and con's,

WELLS How many spaces are there?

WINTER 25 spaces.

WARNER If you don't get this overlay, is it your intention to go to a smaller occupancy?

WINTER Yes, we will do it smaller or do a restaurant.

WARREN If they put a bar in there, they will dilute whatever parking is there. I am going to oppose changing that zoning. I don't think they should steal from other people's spaces.

BISHOP I have a couple of questions of staff. There is no DAB consideration?

MCNEELY No, it didn't go to the DAB.

KROUT We didn't anticipate opposition.

BISHOP I would like to give some consideration to a request for a deferral. It sounds like maybe they need to get together and talk with the neighbors, etc.

WARREN What is going to be accomplished with a deferral?

BISHOP This is the only spot that will be added to the OT-O?

GAROFALO How far are we going to extend this OT-O? I question even going another block to extend it that far.

KROUT We have two variances that have already been approved in the mile between Washington and Hydraulic for Spice Merchant and for Mr. Vliet's building. They went to the BZA, and they don't have to pay any fee.

JOHNSON I think a lot of those streets are narrow. I am going to support the motion to approve.

WELLS Will they pay per stall \$10.00 for every stall that they are short?

KROUT Yes. If you are in the OT-O

**MOTION:** To approve request.

MCKAY moved, MARNELL seconded the motion, and it carried (7-2) WARREN and GAROFALO opposed.

KROUT The  $2^{ND}$  annual indicators report is coming up, and this will give you opportunity for annual review of the Comprehensive Plan. Also, Jamsheed has talked to you about the MPO because of the expanded area that the MPO is responsible for. There is going to need to be some type of new structure, Jamesheed will be presenting a report. Also, start thinking about elections.

The Metropolitan Area Planning Department informally adjourned at 5:03 p.m.

State of Kansas )
Sedgwick County )

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2002.

Marvin S. Krout, Secretary Wichita-Sedgwick County Metropolitan Area Planning Commission (SEAL)